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HUMAN RIGHTS COUNCIL  
Tenth session  
Agenda item 3

**Report submitted by the Special Rapporteur on the situation of human rights  
defenders, Margaret Sekaggya**

**Addendum**

**Summary of cases transmitted to Governments and replies received\***

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\* The present document is being circulated in the languages of submission only, as it greatly exceeds the word limitations currently imposed by the relevant General Assembly resolutions.

## CONTENTS

	Paragraphs	Page
Introduction.....	1-3	4
Afghanistan.....	4-7	4
Algeria.....	8-33	5
Angola.....	34-44	10
Argentina.....	45-107	13
Armenia.....	108-122	24
Azerbaijan.....	123-140	27
Bahamas.....	141-148	30
Bahrain.....	149- 224	32
Belarus.....	225-265	49
Bolivia.....	266-269	57
Bosnia and Herzegovina.....	270-280	58
Brazil.....	281-341	60
Bulgaria.....	342-344	72
Burundi.....	345-357	72
Cambodia.....	358-363	74
Cameroon.....	364-378	75
Central African Republic.....	379-389	78
Chad.....	390-406	80
Chile.....	407-444	83
China (People's Republic of).....	445-666	92
Colombia.....	667-826	135
Congo (Republic of the).....	827-831	167
Croatia.....	832-843	168
Cuba.....	844-877	170
Democratic Republic of the Congo.....	878-905	177
Dominican Republic.....	906-910	184
Ecuador.....	911-937	185
Egypt.....	938-961	190
El Salvador.....	962-969	196
Ethiopia.....	970-981	197
Fiji.....	982-985	200
France.....	986-987	201
Gambia.....	988-992	202
Georgia.....	993-1008	203
Greece.....	1009-1025	208
Guatemala.....	1026-1131	211
Honduras.....	1132-1178	234
India.....	1179-1253	243
Indonesia.....	1254-1273	259
Iran.....	1274-1443	262
Iraq.....	1444-1454	292

Israel.....	1455-1474	294
Japan .....	1475-1485	298
Kenya .....	1486-1515	300
Korea (Republic of) .....	1516-1544	305
Kyrgyzstan .....	1545-1580	311
Lebanon.....	1581-1587	318
Malaysia.....	1588-1643	320
Mauritania.....	1644-1648	332
Mexico .....	1649-1794	333
Mongolia.....	1795-1805	361
Morocco .....	1805-1854	363
Myanmar .....	1855-1949	374
Nepal .....	1950-1965	391
Nicaragua .....	1966-1972	394
Niger .....	1973-1977	396
Nigeria.....	1978-1996	397
Pakistan.....	1997-2036	400
Papua New Guinea.....	2037-2046	407
Peru .....	2047-2060	409
Philippines.....	2061-2139	412
Russian Federation.....	2140-2276	432
Rwanda .....	2277-2292	456
Saudi Arabia.....	2293-2307	459
Serbia .....	2308-2331	461
Sri Lanka .....	2332-2379	466
Sudan.....	2380-2394	477
Syrian Arab Republic.....	2395-2477	480
Thailand .....	2478-2513	494
Tunisia.....	2514-2558	502
Turkey .....	2559-2594	513
Turkmenistan .....	2595-2607	519
Uganda .....	2608-2618	520
United States of America.....	2619-2632	523
Uzbekistan.....	2633-2743	525
Venezuela.....	2744-2755	545
Viet Nam.....	2756-2764	547
Yemen .....	2765-2788	549
Zimbabwe .....	2789-2858	552

## **Introduction**

1. The present document is submitted by the then Special Representative of the Secretary General on the situation of human rights defenders, Ms Hina Jilani, and the Special Rapporteur on the situation on human rights defenders, Ms Margaret Sekaggya, to the Human Rights Council, pursuant to resolutions 5/1 and 7/8 of the Human rights Council. The Special Rapporteur took up her functions on 1 May 2008. The document provides summaries of the communications on specific cases addressed by the then Special Representative and the Special Rapporteur to Governments, as well as summaries of the replies by Governments received and their observations thereon.

2. The cases raised by the then Special Representative and the Special Rapporteur in this addendum include communications sent from 11 December 2007 to 10 December 2008. The addendum contains summaries of responses received from Governments until 10 February 2009. Although received before 10 February 2009, few replies are not included in the present report because translation is awaited. Most of the responses by Governments refer to cases raised by the then Special Representative and the Special Rapporteur during the period December 2007 to December 2008; however, some of the responses are to cases addressed by them in earlier reporting periods. While the summaries of these responses are included in this report, the summaries of the cases to which they refer will be found in the then Special Representative's reports from preceding years (see A/HRC/7/28/Add.1, A/HRC/4/37/Add.1, and E/CN.4/2006/95/Add.1, covering the previous three years).

3. For ease of reference, cases have been grouped by country, with countries listed alphabetically according to their names in English.

## **Afghanistan**

### **Letter of allegations**

4. On 14 August 2008, the Special Rapporteur, together with the the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegations to the Government concerning Ms **Mary Akrami**, member of the Afghan Women's Skills Development Centre (AWSDC), a non-governmental organization (NGO) dedicated to reducing the suffering of Afghan women and children through rehabilitation and development projects and the promotion of peace.

5. According to information received, on 21 July 2008, Ms Mary Akrami went to the Attorney General's office with a client who had been summoned there. In an argument with the women, the Attorney General claimed that the AWSDC supported prostitutes and that its members must pay the price for this. Ms Mary Akrami was detained for three hours. No reason was given for her detention.

6. Concern was expressed that the detention of Ms Mary Akrami may have been related to her legitimate and peaceful activities to defend women's rights in Afghanistan.

### **Observations**

7. The Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted a reply to her communication of 14 August 2008. She considers response to her communications as an important part of the cooperation of Governments with her mandate, and urges the Government to respond to the concerns raised by her.

## **Algeria**

### **Lettre d'allégations**

8. Le 11 avril 2008, l'ancienne Représentante spéciale, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une lettre d'allégations sur la situation Me **Abderrahman Amine Sidhoum**, avocat et défenseur des droits de l'homme, membre de l'organisation non-gouvernementale des droits de l'homme SOS Disparu(e)s. Me Amine Sidhoum Abderramane a fait l'objet de plusieurs communications de la part des procédures spéciales, en l'occurrence un premier appel urgent le 26 mai 2006 par le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, un second appel urgent le 8 septembre 2006 par le Rapporteur spécial sur l'indépendance des juges et des avocats et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et enfin une lettre d'allégations le 10 octobre 2006 par le Rapporteur spécial sur l'indépendance des juges et des avocats et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme. Le Gouvernement algérien a envoyé une réponse en date du 15 novembre 2006 en relation avec les présents faits. Selon les nouvelles informations reçues :

9. Le 30 mars 2008, le procès pour diffamation de Me Sidhoum aurait eu lieu devant la première section pénale du Tribunal de Sidi M'hamed, à Alger. Le 23 août 2006, Me Sidhoum aurait reçu une convocation du juge d'instruction du tribunal de Sidi M'Hammed à Alger qui le notifiait d'une plainte déposée à son encontre par le Ministre de la Justice pour « diffamation » à la suite de ses déclarations publiées dans l'article « Aoufi passe son trentième mois en détention » paru dans le quotidien arabophone El Chourouk le 30 mai 2004. Me Sidhoum aurait été accusé de jeter le discrédit sur une décision de Justice et de porter outrage à un corps constitué de l'Etat. Lors de son entretien avec la journaliste auteure de l'article susmentionné, Me Sidhoum aurait dénoncé la détention arbitraire de son client dans la prison de Seradji qui durait depuis 30 mois. Cependant, la journaliste, alors journaliste stagiaire au quotidien, n'aurait pas

rapporté de manière fidèle les propos de Me Sidhoum, écrivant que le client de ce dernier « passe son trentième mois à Serkadji suite à une décision arbitraire rendue par la Cour Suprême ». En effet, au moment où Me Sidhoum avait tenu ces propos, aucune décision n'aurait encore été rendue par la Cour Suprême, qui ne se serait prononcée que le 28 avril 2005, soit un an après la parution de l'article.

10. Le 27 mai 2007, Me Sidhoum aurait reçu un télégramme lui notifiant sa convocation devant la 6ème chambre d'accusation de Sidi M'Hamed, à Alger, le 12 juin 2007, suite à une demande de complément d'information effectuée par le procureur dans le cadre de ces poursuites. L'audience du 12 juin devait permettre une confrontation entre Me Sidhoum et une journaliste du quotidien El Chourouk, mais cette dernière ne s'étant pas présentée, l'audience aurait été repoussée à une date ultérieure. Par la suite, l'audience aurait été repoussée à de nombreuses reprises.

11. A la fin de l'audition des parties le 30 mars 2008, le Procureur aurait requis deux ans de prison ferme contre Me Sidhoum. Le verdict est attendu le 13 avril.

12. De vives craintes sont réitérées quant au fait que les charges retenues contre Me Amine Sidhoum viseraient à empêcher ce dernier de poursuivre ses actions en faveur de la défense des droits des familles de disparus au sein de SOS Disparu(e)s.

### **Réponse du Gouvernement**

13. Le 30 avril 2008, le Gouvernement algérien a répondu à la lettre d'allégations du 11 avril 2008. Le Gouvernement informe que l'affaire dont est justiciable Me **Abderrahman Amine Sidhoum** est sans rapport avec les activités privées de défense des droits de l'homme. Le Gouvernement ajoute que sa réponse de fond sera communiquée en temps utile aux titulaires de mandats concernés.

### **Lettre d'allégations**

14. Le 24 avril 2008, l'ancienne Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur la torture, a envoyé une lettre d'allégations concernant la situation de **membres de l'Intersyndicale autonome de la fonction publique**. Selon les informations reçues :

15. Le 13 avril 2008, des membres de l'Intersyndicale autonome de la fonction publique se seraient mis en grève afin de protester contre le projet de revalorisation des salaires, élaboré par le gouvernement qui n'aurait consulté aucun syndicat.

16. Le 15 avril, ces mêmes membres auraient demandé à rencontrer le Premier Ministre Abdelaziz Belkhadem afin de lui faire part de leur désaccord sur ce projet, en vain du fait de l'intervention des hommes des Unités républicaines de sécurité. Les syndicalistes seraient alors passés outre l'interdiction de manifester, en vigueur depuis 2001, et auraient organisé un rassemblement sur la place de la Grande Poste, où ils

auraient exhibé des banderoles critiquant le gouvernement. Les policiers auraient alors eu recours à la force pour s'emparer des banderoles, bousculant, insultant et prenant à partie les manifestants. Les forces anti-émeutes, appelées en renfort, auraient chargé les manifestants et fait usage de leurs matraques, arrêtant sept enseignants en fin de matinée, qui auraient finalement été relâchés dans l'après-midi. Une militante du Conseil des lycées d'Algérie aurait été violemment prise à partie et un membre du Conseil national autonome des professeurs de l'enseignement secondaire et technique aurait été traîné par la veste dans la rue, arrêté, puis immédiatement relâché sous la pression de ses collègues. Au total, 10 personnes auraient été arrêtées, auditionnées puis relâchées quelques heures plus tard et des procès-verbaux auraient été dressés.

17. Des craintes sont exprimées quant au fait que les arrestations des syndicalistes par les forces de l'ordre et le recours à la force à leur encontre soient liés à leurs activités non-violentes de défense des droits de l'homme, en particulier dans l'exercice présenté comme non-violent de leur droit à la liberté d'opinion et d'expression.

### **Lettre d'allégations**

18. Le 26 mai 2008, la Rapporteuse spéciale a envoyé une lettre d'allégations sur la situation de Mme **Cherifa Kheddar**, présidente de l'association Djazairouna qui défend les droits des victimes du terrorisme. Elle a à maintes reprises publiquement exprimé son opposition à la Charte pour la paix et la réconciliation nationale et ses textes d'application amnistiant les terroristes et les agents de l'État. Selon les informations reçues :

19. En avril 2008, Djazairouna, le Collectif des Familles de Disparus en Algérie et Somoud auraient organisé un forum-atelier dans les locaux de Djazairouna à Blida sur le thème de la recherche de la vérité. Suite à sa participation à cet événement, Mme Cherifa Kheddar, employée depuis 12 ans par la préfecture de Blida, aurait reçu des avertissements de la part de sa hiérarchie. Ces avertissements auraient finalement abouti au licenciement de Mme Kheddar le 17 mai 2008 alors que celle-ci rentrait d'une semaine de formation sur la justice transitionnelle organisée à Rabat, Maroc. Il est allégué que Mme Kheddar aurait dûment posé un congé officiel afin de participer à cette formation. Mme Cherifa Kheddar compterait déposer un recours administratif contre cette décision.

20. Des craintes sont exprimées quant au fait que le licenciement de Mme Cherifa Kheddar soit lié à ses activités non-violentes de défense des droits de l'homme, en particulier en faveur des droits des victimes du terrorisme.

### **Appel urgent**

21. Le 13 juin 2008, la Rapporteuse spéciale, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats et de Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent sur la situation de Me **Abderrahman Amine Sidhoum**, avocat et défenseur

des droits de l'homme, membre de l'organisation non-gouvernementale des droits de l'homme SOS Disparu(e)s.

22. Me Amine Sidhoum Abderramane a fait l'objet de plusieurs communications de la part des procédures spéciales, en l'occurrence un premier appel urgent le 26 mai 2006 par le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, un second appel urgent le 8 septembre 2006 par le Rapporteur spécial sur l'indépendance des juges et des avocats et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, une première lettre d'allégations le 10 octobre 2006 par le Rapporteur spécial sur l'indépendance des juges et des avocats et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et enfin une seconde lettre d'allégations envoyées par le Rapporteur spécial sur l'indépendance des juges et des avocats et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 11 avril 2008. Le Gouvernement a envoyé deux réponses en date du 15 novembre 2006 et 30 avril 2008 en relation avec les présents faits. Selon les nouvelles informations reçues :

23. Le 16 juin 2008 aura lieu le procès en appel de Me Amine Sidhoum Abderramane devant la Cour d'Alger.

24. Me Sidhoum aurait été condamnée en première instance par le Tribunal de Sidi M'hamed à 6 mois de prison avec sursis et 20,000 dinars d'amende pour diffamation à l'égard d'une décision de justice à la suite de ses déclarations publiées dans l'article « Aoufi passe son trentième mois en détention » paru dans le quotidien arabophone El Chourouk le 30 mai 2004. Me Sidhoum aurait été accusé de jeter le discrédit sur une décision de Justice et de porter outrage à un corps constitué de l'Etat. Lors de son entretien avec la journaliste auteure de l'article susmentionné, Me Sidhoum aurait dénoncé la détention arbitraire de son client dans la prison de Seradji qui durait depuis 30 mois. Cependant, la journaliste, alors journaliste stagiaire au quotidien, n'aurait pas rapporté de manière fidèle les propos de Me Sidhoum, écrivant que le client de ce dernier « passe son trentième mois à Serkadji suite à une décision arbitraire rendue par la Cour Suprême ». En effet, au moment où Me Sidhoum avait tenu ces propos, aucune décision n'aurait encore été rendue par la Cour Suprême, qui ne se serait prononcée que le 28 avril 2005, soit un an après la parution de l'article.

25. De vives craintes sont réitérées quant au fait que les charges retenues contre Me Sidhoum viseraient à empêcher ce dernier de poursuivre ses actions en faveur de la défense des droits des familles de disparus au sein de SOS Disparu(e)s.

### **Réponse du Gouvernement**

26. Le 10 juillet 2008, le Gouvernement algérien a répondu à l'appel urgent du 13 juin 2008. Le Gouvernement algérien informe que les poursuites engagées à l'encontre de



Me **Abderrahman Amine Sidhoum** sont consécutives à un article de presse publié par le quotidien *El Chourouk* dans lequel Me Ddhoum déclare en substance « que le nommé T.A., directeur de l'agence foncière d'Oran, vit une véritable tragédie du fait de son incarcération par suite du jugement inique et abusif à son encontre par la Cour suprême ». Considérant que ces propos, diffusés par voie de presse, constituaient un outrage à la justice en tant qu'institution fondamentale de l'Etat, le représentant du Ministère public a ouvert une information judiciaire et en a saisi le juge d'instruction de la 6<sup>ème</sup> chambre du tribunal d'Alger. Ce dernier a instruit l'affaire et a rendu une ordonnance par laquelle il renvoie Me Sidhoum devant le tribunal, pour y être jugé conformément à la loi. Le 13 avril 2008, le tribunal a condamné Me Sidhoum à 6 ans de prison avec sursis et 20,000 DA d'amende. Après cette décision, l'intéressé a interjeté appel. L'examen de l'affaire en appel est fixé au 8 octobre 2008.

### **Lettre d'allégations**

27. Le 7 novembre 2008, la Rapporteuse spéciale, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une lettre d'allégations sur la situation de Me **Abderrahman Amine Sidhoum**, avocat et défenseur des droits de l'homme, membre de l'organisation non-gouvernementale des droits de l'homme SOS Disparu(e)s.

28. Me Amine Sidhoum Abderramane a fait l'objet de plusieurs communications de la part des procédures spéciales, en l'occurrence un premier appel urgent le 26 mai 2006 par le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, un second appel urgent le 8 septembre 2006 par le Rapporteur spécial sur l'indépendance des juges et des avocats et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, une première lettre d'allégations le 5 octobre 2006 par le Rapporteur spécial sur l'indépendance des juges et des avocats et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, une seconde lettre d'allégations envoyée par le Rapporteur spécial sur l'indépendance des juges et des avocats et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 11 avril 2008, et enfin un appel urgent envoyé le 13 juin 2008. Le gouvernement algérien a envoyé des réponses en date du 15 novembre 2006, 30 avril et 10 juillet 2008 en relation avec les présents faits.

29. Me Sidhoum est accusé "d'avoir jeté le discrédit sur une décision de justice et d'outrage à corps constitué de l'État". Ces poursuites sont liées à la plainte déposée, le 23 août 2006, par le ministre de la Justice pour "diffamation", en lien avec la parution d'un article dans le quotidien *El Chourouk*, le 30 mai 2004, dans lequel Me Sidhoum était accusé d'avoir dénoncé la détention de l'un de ses clients "suite à une décision arbitraire rendue par la Cour Suprême", alors même que la Cour Suprême ne s'était pas encore prononcée. D'après les nouvelles informations reçues:

30. Le 13 avril 2008, le Tribunal de Sidi M'hamed, à Alger, a condamné Me Amine Sidhoum à six mois de prison avec sursis et à 20,000 dinars d'amende. Le parquet, qui avait requis deux ans de prison ferme à l'encontre de Me Sidhoum, et la partie civile ont interjeté appel de cette décision. L'audience d'appel aura lieu le 12 novembre 2008 devant la Cour d'appel d'Alger.

31. De vives craintes sont réitérées quant au fait que les charges retenues contre Me Sidhoum viseraient à empêcher ce dernier de poursuivre ses actions en faveur de la défense des droits des familles de disparus au sein de SOS Disparu(e)s.

### **Observations**

32. La Rapporteuse spéciale remercie le Gouvernement de ses réponses mais regrette, au moment de la finalisation du présent rapport, l'absence de réponse aux communications en date du 6 mars 2007, 26 mai 2008 et 7 novembre 2008.

33. La Rapporteuse spéciale demeure préoccupée par le cas de Me Sidhoum dont la peine à six mois de prison avec sursis et à 20 000 dinars d'amende a été confirmée en appel le 26 novembre 2008. Des explications substantielles et détaillées concernant les charges retenues contre Me Sidhoum, notamment au sujet de la recevabilité de la plainte pour diffamation alors que les propos prêtés à Me Sidhoum quant à une décision « arbitraire » de la Cour Suprême ont été tenus antérieurement à toute décision de cette même Cour, n'ont toujours pas été reçues. Cette inconsistance, déjà soulevée dans les appels urgents envoyés le 8 septembre 2006, 11 avril 2008, 13 juin 2008 et 7 novembre 2008, n'a été adressée dans aucune réponse du Gouvernement.

## **Angola**

### **Letter of allegations**

34. On 10 October 2008, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights sent a letter of allegations to the Government regarding the closure of Mpalabanda (Associação Cívica de Cabinda) and the attempt to close the Association for Justice, Peace and Democracy (AJPD), two non-governmental organizations (NGOs) dedicated to the defense of human rights. Mpalabanda has reported on alleged human rights violations perpetrated in the name of both Government and opposition parties. It has also spoken out against shortcomings in the peace process in Angola. The AJPD works to monitor and report on human rights violations, particularly regarding prison conditions, and provide human rights training to police in Angola. It has worked to defend the right to democracy by providing impartial information to the public in the run-up to the elections of 5 and 6 September 2008, and by speaking out about shortcomings in the electoral process.

35. On 14 August 2007, the then Special Representative of the Secretary General on the situation of human rights defenders sent a letter of allegations to the Government regarding public statements made by the Director General of the Government's Technical Unit of Humanitarian Aid (UTCAH) about SOS – Habitat, Mãos Livres, the Angolan branch of the Open Society Initiative for Southern Africa, and Justice, Peace and Democracy. The Director General reportedly made false accusations that these organizations carried out illegal acts, and expressed the intention to have them closed down. A response from the Government had not yet been received at the time of this communication.

36. According to the information received, on 31 August 2000, the year when the AJPD was founded, its legal statute was deposited and published in the Government Gazette. In 2003, a case was reportedly lodged in the Supreme Court against the AJPD for failing to alter its legal statute. Despite several attempts by the AJPD to verify the status of its case, it received no response. On 3 September 2008, the Director of the AJPD was requested to appear before the Constitutional Court the following day. At the Constitutional Court he was informed that a case to close his organization down had been presented by the Procurator General. According to the Procurator General, the AJPD's legal statute contravenes articles 2 and 7 of the Angolan Law of Associations by allowing collective bodies to be part of the AJPD. The Procurator General claims that article 6 of the AJPD's legal statute also contravenes the Law of Associations by allowing the AJPD to take part in political activities. In addition, it is claimed that articles 2 and 7 of the Angolan Law of Associations do not state specifically that collective bodies cannot form part of an association.

37. Previously, attempts have been made to close down various other human rights NGOs in Angola. On 20 July 2006, the Provincial Court of Cabinda closed down Mpalabanda, accusing the NGO of inciting violence and hatred, and of carrying out political activities rather than being a civil society organization. When the court's decision was made to close Mpalabanda, the allegations of promotion of violence and hatred were not mentioned and no witnesses were called to give evidence in relation to these allegations.

38. Concern was expressed that the closure of Mpalabanda and the threats to close the AJPB, SOS – Habitat, Mãos Livres and the Angolan branch of the Open Society Initiative for Southern Africa may have been related to their activities in the defense of human rights.

### **Response from the Government**

39. On 21 October 2008, the Government responded to the letter of allegations. The Government stated that Angola is a sovereign nation and a multi-party democracy with legitimate State institutions able to deal with all cases pertaining to the rights of citizens. The policies and the programme of political parties, including the ruling party, were all submitted recently to scrutiny in free and fair elections monitored by the international community. The turn-out went well beyond 75 per cent of the eight million registered

voters. The powers of the executive and legislative branches are not unchecked. The judiciary is independent and, despite its weaknesses due to the lack of adequate human and financial resources, by and large, serves in a balanced way the right to justice that every citizen is entitled to. In order to make it more efficient and up to date the judiciary is undergoing a thorough overhaul. Accordingly a Constitutional Court was set up. The criminal and the civilian codes dating from colonial rule are being revised. New legislation is being introduced to deal with new challenges in terms of new forms of crimes and to consolidate the democratic system.

40. Even before this process of reform, Angola was known for possessing one of the most open domestic legislations governing the right to association. 400 associations have registered in the Ministry of Justice, most of them working on human rights issues, but also on education, child care, community organization, the empowerment of women etc. Since their inception only one of them has been subjected to any sort of banning related to their operations. The decision to ban Mpalabanda was not issued by an administrative authority but by a competent court following due process. The merit of the complaint was the nonconformity of the recent practices of the leaders of said organization with the law. Mpalabanda had been given, as a defendant, the right to be represented by a lawyer and to present arguments in its defence. It also exhausted all domestic remedies, appealing to a higher Court. The Court of first instance found Mpalabanda's most recent leadership practices contrary to the purpose set forth in its registration process. The leader of the organization is currently a member of parliament after running as a member of a political party. Other Mpalabanda leaders also run in the ticket of political parties. It goes without saying that in fact there was a very thin line between Mpalabanda's latest practices and political activity. To do political activity, you must register as a political party not as a human rights NGO.

41. As for the AJPD, a legal procedure was initiated by the office of the attorney general for that organization to alter some of the articles of its statute as recommended by the Ministry of Justice when it submitted its papers to be granted legal status. The organization was given provisional authorization to operate pending the conclusion of its paper work. There was never any intention to curtail its operations or suppress its existence; otherwise it would have taken place at the time when the application was submitted. The concerned organization is not prevented from making its case before the pertinent instances. A legal procedure is currently taking place. It is not appropriate to jump to hasty conclusions or make considerations on a case that is still sub judice. Besides, this is a court case, not a government procedure. It is assumed that the rule of law implies that every citizen, individually or organized, plays by the rules, unless the distinguished special rapporteurs want to make exceptions when it comes to Angola. The merit of both parties' arguments will be decided upon only at the end of the legal procedure by the Constitutional Court.

42. Further clear indications that Angolan laws are intended to facilitate the realization of the right to association as protected by the constitution, rather than making it more difficult, can be drawn from the law on political association. Under this bill, which governs the creation and operation of political parties, more than 98 political

parties were formed and registered in the Constitutional Court. As far as freedom of expression is concerned, a dozen independent newspapers and half a dozen radio stations are run by private entrepreneurs without any interference by the state in their editorial lines. They criticize, sometimes very harshly, the Government and the Head of State, however there are no reports whatsoever that any of them have been closed down or prevented from carrying on their normal business. International press, printed, broadcasted and televised, is allowed freely. Angola has a strong and well-known record of abiding by its international obligations, particularly when it comes to human rights. Were it not for our firm commitment to democracy, the rule of law, human rights and freedom, the impressive performance Angola is currently achieving in all domains would be impossible. Thousands of immigrants from sister African nations, who come to Angola looking for a better future, would not do so if Angola had a record and practice of harassment of people's rights.

### **Observations**

43. The Special Rapporteur thanks the Government for its response, but regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication of 14 August 2007. She considers response to her communications as an important part of the cooperation of Governments with her mandate, and urges the Government to respond to the concerns raised by her.

44. The Special Rapporteur expresses her support to the concluding observations of the Committee on Economic, Social and Cultural Rights, adopted during its 41<sup>st</sup> session in November 2008, which state that “[t]he Committee is concerned that NGOs involved in the realization of economic, social and cultural rights are allegedly still under strict oversight, subject to coordination, evaluation and inspections carried out by the Technical Unit for the Coordination of Humanitarian Assistance, and that human rights defenders are still subjected to many legal and de facto restrictions, which constitutes a serious obstacle to the promotion and protection of economic, social and cultural rights. The Committee urges the State party to establish legal guarantees to enable NGOs to carry out their activities for the promotion and protection of economic, social and cultural rights without arbitrary interferences. The Committee further urges the State party should to ensure that perpetrators of attacks to the human rights defenders are brought to justice” (E/C.12/AGO/CO/3, para. 13).

### **Argentina**

#### **Carta de alegaciones**

45. El 15 de mayo de 2008 la Relatora Especial sobre la situación de los defensores de los derechos humanos envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con la organización el **Movimiento Ecuménico por los Derechos Humanos (MEDH)** y las Sras. **Viviana Beigel** (abogada) y **Alicia Morales** (testigo).

46. La organización MEDH consiste en un grupo de iglesias en Mendoza que se ha dedicado a los derechos humanos. El MEDH ha participado en acciones judiciales contra el Sr. Carlos Rico, ex subsecretario de Seguridad de Mendoza y comisario inspector retirado.

47. De acuerdo con las informaciones recibidas, el 17 de abril de 2008, un hombre desconocido habría entrado en las oficinas del MEDH y habría robado la computadora de la presidenta de la organización.

48. El 25 de marzo de 2008, Viviana Beigel, una abogada del MEDH, presentó denuncias contra Carlos Rico por haber participado en detenciones ilegales, torturas y desapariciones durante la dictadura argentina. El 11 de abril de 2008, la casa de la Sra. Viviana Beigel habría sido atacada por personas desconocidas, ocasionado daños materiales y robos menores.

49. Durante los últimos meses también ha habido ataques contra la casa de la Sra. Alicia Morales, una testigo en el caso de Carlos Rico.

50. Se expresó temor que los ataques contra la oficina de MEDH y contra las casas de la Sra. Viviana Beigel y la Sra. Alicia Morales podrían estar directamente relacionados con sus actividades en defensa de los derechos humanos, en particular su trabajo para defender a las víctimas de violaciones de derechos humanos durante la época de la dictadura y su lucha contra la impunidad en Argentina. Asimismo, se expresó preocupación por la integridad física y psicológica de los miembros del MEDH y las Sras Viviana Beigel y Alicia Morales.

### **Respuesta del Gobierno**

51. Mediante carta fechada el 14 de noviembre de 2008, el Gobierno respondió a la carta de alegaciones. El Gobierno afirmó que los hechos a los que se referían las alegaciones presentadas eran exactos. La Sra. Alicia Morales se presentó ante la dirección de Derechos Humanos a los efectos de formular denuncia debido a que reconoció, de manera espontánea, al ex-Subsecretario de Seguridad de Mendoza, el Sr. Carlos Rico, como uno de los sujetos que frecuentaba el centro clandestino de detención que funcionaba en el departamento de Informaciones D-2 de la Policía de Mendoza; lugar en que la denunciante permaneció detenida entre junio y noviembre de 1976. Ante esta primera denuncia, efectuada por la Sra. Morales, se coordinaron una serie de acciones por parte de la Dirección; en primer lugar se la acompañó a declarar ante la justicia Federal y luego, de tomar conocimiento de los hechos ocurridos en el domicilio particular de la testigo, se solicitó al referido Tribunal, por parte de la mencionada Dirección, que la Sra. Alicia Morales procediera a formar parte del Programa Nacional de Protección de Testigos. De hecho la testigo tuvo acompañamiento policial durante varios días en forma constante. Asimismo, es dable destacar que la Dirección de Derechos Humanos cuenta con un Consejo Asesor Permanente integrado por diversos Organismos de Derechos Humanos de la provincia, quienes han acompañado moralmente desde el primer momento a la Sra. Morales. En definitiva, la Dirección de Derechos Humanos de la

provincia de Mendoza ha tomado todas las medidas posible para darle contención y canalizar la denuncia de la Sra. Morales, tanto desde el punto de vista legal como moral.

52. La Dra. Viviana Beigel de parte de la Dirección de Derechos Humanos como de los Organismos de Derechos Humanos de Mendoza ha recibido todo el apoyo necesario. El MEDH efectuó la denuncia correspondiente al allanamiento en sus oficinas y también recibió el apoyo de la Dirección de Derechos Humanos, teniendo en consideración que el MEDH es parte del Consejo Asesor de la mencionada Dirección.

### **Carta de alegaciones**

53. El 16 de mayo de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Presidente del Grupo de Trabajo sobre Desapariciones Forzadas o Involuntarias enviaron una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **Juan Evaristo Puthod**, testigo en varias causas judiciales por crímenes de lesa humanidad y ex detenido y desaparecido de la época de la dictadura militar. El Sr. Juan Evaristo Puthod es presidente de la organización Casa de la Memoria de Zérate.

54. Según las informaciones recibidas, el día 29 de abril de 2008 a las 18.45, el Sr. Juan Evaristo Puthod habría sido secuestrado por desconocidos mientras se dirigía hacia su lugar de trabajo, la Casa de la Memoria.

55. Los secuestradores le habrían pegado y amenazado de muerte, diciendo que su vida era en sus manos. Le habrían coaccionado para no hacer público los asesinatos cometidos durante la dictadura militar.

56. Los secuestradores le habrían interrogado sobre un acto que estaba organizando la Casa de la Memoria en homenaje a Osvaldo Cambiasso y Eduardo Pereira Rossi, los cuales fueron secuestrados y desaparecidos durante la dictadura militar.

57. El 30 de Abril de 2008, a las 23 horas, el Sr. Juan Evaristo Puthod fue liberado, después de haber sido secuestrado durante 28 horas.

58. El Sr. Juan Evaristo Puthod habría también recibido amenazas anteriormente, las cuales habrían sido denunciadas ante las autoridades competentes. Las investigaciones no habrían dado resultados concretos. El Sr. Juan Evaristo Puthod es testigo en varias causas que investiga la represión y crímenes cometidos durante la dictadura militar, entre ellas una causa en contra del ex comisario Luis Abelardo Patti.

59. Se expresó preocupación por la seguridad del Sr. Juan Evaristo Puthod porque se temía que los incidentes descritos podrían estar relacionados con sus actividades en defensa de los derechos humanos, en particular la defensa de los derechos de las víctimas del régimen militar. Además se expresó temor de que estos incidentes tuvieran por objetivo intimidar al testigo, y en particular a los testigos en casos relacionados a crímenes cometidos durante la dictadura militar.

## **Respuesta del Gobierno**

60. Mediante cartas fechadas 5 de junio, 11 de junio, y 26 de junio de 2008, el Gobierno respondió a esta carta de alegaciones. La carta fechada 5 de junio de 2008 informó por parte de la Dirección Nacional del Programa Nacional de Protección a Testigos e Imputados, del Ministerio de Justicia Seguridad y Derechos Humanos (la Dirección), que el pedido judicial de incorporación era necesario para que la Dirección pudiera intervenir directamente en el caso. No obstante, la Dirección había tenido contacto telefónico con la esposa del Sr. Juan Evaristo Puthod desde el momento en que ingresaba a la comisaría de Zárate para realizar la denuncia hasta el momento en que el Gobierno de la Provincia de Buenos Aires tomó intervención directa; la Dirección se había dirigido a la casa de la Memoria Zárate para ofrecer la colaboración a la familia del Sr. Juan Evaristo Puthod; y la Dirección había puesto su cooperación a disposición del Sr. Ministro de Seguridad de la Provincia de Buenos Aires, mediando la intervención del Sr. Ministro de Justicia, Seguridad y Derechos Humanos, y de las Fuerzas de Seguridad Federales.

61. La carta fechada 11 de junio de 2008 afirmó, por parte de la Secretaria de Derechos Humanos del Gobierno de la Provincia de Buenos Aires, que el Sr. Juan Evaristo Puthod era testigo en investigaciones de delitos de lesa humanidad; que, junto con la secretaria de la Provincia, estaba organizando un homenaje por los 25 años de los asesinatos de Eduardo Pereyra Rossi y Osvaldo Cambiaso; que había recibido amenazas desde julio de 2005, cuando la Casa de la Memoria de Zárate se abrió y que las denuncias de las amenazas quedaron asentadas ante el Juzgado Federal de Campana; y que en 2006 dos personas habían entrado en la Casa de la Memoria de Zárate tratando de localizar al Sr. Juan Evaristo Puthod y maltrataron a su esposa cuando les informó que no estaba allí. La carta explicó que el Fiscal y los querellantes solicitaban la reapertura de la investigación de los asesinatos de Eduardo Pereyra Rossi y Osvaldo Cambiaso. También confirmó los detalles del secuestro del Sr. Juan Evaristo Puthod: tuvo lugar el 29 abril de 2008; sus secuestradores le golpearon, le amenazaron y le dijeron que dejara de organizar el homenaje; el Sr. Juan Evaristo Puthod fue dejado lejos de su domicilio 28 horas después de que le secuestraran. Según la carta, estos hechos dieron origen a la apertura de una causa. El abogado del Sr. Juan Evaristo Puthod solicitó que esta causa sea competencia de la justicia federal.

62. También la carta comunicó que, poco después del secuestro, la esposa del Sr. Juan Evaristo Puthod había llamado a la casa particular de la Secretaria de Derechos Humanos para decir que su marido no había llegado a la radio donde iba a conducir un programa. Después de darle el consejo que realizara la denuncia en la comisaría, la Secretaria de Derechos Humanos informó al Gobernador de la Provincia de Buenos Aires, quien comunicó la información al Ministro de Seguridad y al Secretario General de la Gobernación enseguida.

63. La carta fechada 26 de junio de 2008 comunicó que el Ministerio de Justicia de la Provincia de Buenos Aires fue informado por un médico que el Sr. Juan Evaristo Puthod



presentaba, al momento de su aparición, lesiones en sus muñecas, compatibles con atadura, y lesión en su rostro, y que fue internado por su diabetes. Después le habían otorgado medidas de seguridad urgentes: un botón antipánico, aparato Nextel y personal de custodia. Personal de custodia también le fue adjudicado al cofundador de la Casa de la Memoria de Zárate. La carta también comunicó que a la fecha la causa se encontraba por ante el Juzgado Federal, que la custodia respecto del Sr. Juan Evaristo Puthod y sus tres hijos continuaba y que no existían personas imputadas en los eventos en investigación.

64. La misma carta comunicó información del Centro de Protección de los Derechos de la Víctima Dependiente del Ministerio de Justicia de la Provincia de Buenos Aires (el Centro) sobre su intervención en la asistencia de los aspectos anímicos y sociales de la familia del Sr. Juan Evaristo Puthod. Ha visitado el domicilio de la familia un equipo interdisciplinario compuesto mayoritariamente por psicólogos y profesionales especializados en temas educativos, dado que el secuestro había causado una desorganización en el desarrollo escolar de las dos niñas convivientes con el matrimonio. El equipo también logró una mejor atención por parte del sistema de salud local para el Sr. Juan Evaristo Puthod y vinculó a la familia en actos organizados por la Casa de la Memoria en Zárate. La carta indicó que el Centro intervendría mientras la situación lo demandara.

65. Las tres cartas aseguraron que el Gobierno mantendría informados a los Señores Relatores respecto a los avances que se produzcan en las investigaciones relacionadas con el caso.

### **Llamamiento urgente**

66. El 5 de agosto de 2008 la Relatora Especial sobre la situación de los defensores de los derechos humanos envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con **Pelota de Trapo**, una fundación que se dedica a la defensa de los derechos de niños y jóvenes. En 1987, Pelota de Trapo fundó el Movimiento Nacional Chicos del Pueblo, una red de más de 300 organizaciones. Pelota de Trapo coordina el Movimiento Nacional Chicos del Pueblo al nivel nacional.

67. Según las informaciones recibidas, el 18 de abril se habría iniciado una campaña que se llama “El Hambre es un Crimen” en la Parroquia Santa Cruz de Buenos Aires. El 25 de abril un grupo comando de ocho hombres armados habría entrado en la Escuela Gráfica Manchita de Pelota de Trapo y habría encerrado a los niños y educadores en el depósito y se habría ido después de quince minutos sin robar nada.

68. El 18 de julio la campaña “El Hambre es un Crimen” se habría iniciado en Mar del Plata. El 24 de julio, aproximadamente a las 6 a.m., un joven de dieciséis años del Hogar Juan XXIII, una de las organizaciones del Movimiento Nacional Chicos del Pueblo, habría sido secuestrado por un hombre encapuchado. El hombre habría subido al joven en un coche donde habría habido dos hombres más y una mujer. Se habría colocado un revolver en la boca del joven mientras la mujer le habría amanezado con muerte. “La

Casa del Niño” referiría a la Casa de los Niños, otro programa de Pelota de Trapo que proporciona alimentación, asistencia médica y educación a 200 niños. El joven habría sido dejado en una estación de trenes el mismo día.

69. Se expresó preocupación que las amenazas y la intimidación contra Pelota de Trapo estén relacionadas con las actividades legítimas de la organización en la defensa de los derechos humanos de niños y jóvenes bonaerenses.

### **Respuesta del gobierno**

70. Mediante carta fechada el 28 de octubre de 2008, el Gobierno respondió al llamamiento urgente. La carta comunicó que la Secretaría de Derechos Humanos intervino de oficio a los fines de averiguar la exactitud de los hechos a los que se refieren las alegaciones presentadas. Dichos hechos se encontraban en etapa investigativa, siendo ratificados por el Coordinador del Servicio Zonal de Lomas de Zamora. Entendiendo el término queja en un sentido amplio, que incluyera a las denuncias penales, se podía afirmar que se presentó una denuncia en sede Penal, que originó la Instrucción Penal Preparatoria (IPP) N° 6749 en la Fiscalía Unidad Funcional Investigativa N° 4, Descentralizada del Departamento Judicial de Avellaneda, Provincia de Buenos Aires. La investigación se encontraba en trámite a fin de dar con los autores del hecho. Asimismo, en virtud de la gravedad de los hechos denunciados, se han dispuesto custodias de carácter fijas y permanentes a los efectos que custodiaran la fundación “Pelota de Trapo”, a los efectos de preservar a los jóvenes integrantes de las mismas. Se observó que un Agente Fiscal informó que han dispuesto como medidas consignas dinámicas a fin de custodiar dicha fundación, a través de un contacto fluido con personal policial de las Seccionales en las cuales se encontraban sedes de dicha fundación a los efectos de preservar a los jóvenes integrantes de las mismas. El órgano competente en la temática de niñez y adolescencia evalúa que “su intervención se debe limitar a acompañar el pedido de la Justicia, y ponerse a su disposición para lo que estimen conveniente” y recalcando que “Los hechos sucedieron fuera del ámbito del Hogar” correspondiéndole a la policía y a la UFI interviniente el esclarecimiento y la garantía de protección tanto de la circulación por la vía pública como la libre expresión de sus ideas”. El Gobierno se comprometió a mantener informada a la Señora Relatora respecto a los avances que se produjeran en las investigaciones relacionadas con el caso antes mencionado.

### **Llamamiento urgente**

71. El 27 de agosto de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión enviaron un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el secuestro del Sr. **Nahuel Pino**, miembro de la Secretaría de Pueblos Originarios de la provincia de Buenos Aires de la Central de los Trabajadores Argentinos (CTA) y testigo en causas judiciales por violaciones de derechos humanos cometidas durante los años de la dictadura en Argentina.

72. De acuerdo con las informaciones recibidas, el 14 de agosto de 2008, el Sr. Nahuel Pino habría sido secuestrado por cuatro desconocidos en la Ciudad de la Plata en camino a la sede de la CTA. Los desconocidos le habrían obligado a subir en una combi blanca. Allí le habrían atado las manos con precintos, cubierto la cabeza con una bolsa de plástico y así le habrían asfixiado. Fue golpeado y los secuestradores habrían apagado cigarrillos en su cuerpo, diciendo que se dejara “de joder”, que cerrara “la boca” y que abandonara su militancia por los derechos de los pueblos originarios.

73. Después de una hora le habrían liberado. El Sr. Nahuel Pino fue al hospital para atención médica. Luego habría denunciado el secuestro en la Comisaría 9ª y la fiscalía correspondiente. Además, habría notificado a los Ministros de Seguridad, Trabajo y Justicia, y al Jefe del Gabinete de lo que le habría pasado.

74. Se expresó gran preocupación que el secuestro del Sr. Nahuel Pino podría estar relacionado con sus actividades legítimas en la defensa de los derechos humanos. También se expresó preocupación por la integridad física y psicológica del Sr. Nahuel Pino. Dado que han ocurrido otros secuestros recientes de defensores de los derechos humanos en Argentina – entre ellos sindicalistas y testigos en causas judiciales por violaciones de derechos humanos cometidas durante los años de la dictadura – este incidente se enmarca en un contexto de gran vulnerabilidad de los defensores de los derechos humanos.

### **Respuesta del Gobierno**

75. Mediante las cartas fechadas 17 de noviembre de 2008 y 28 de enero de 2009, el Gobierno respondió al llamamiento urgente. La carta fechada 17 de noviembre de 2008 comunicó que, el 2 de octubre de 2008, el Sr. Secretario de la Unidad Fiscal Federal tomó contacto con un abogado quien le informó que se habría formulado denuncia en la UFI N° 11 de la ciudad de La Plata por los hechos relatados en la nota de la Oficina del Alto Comisionado. Según el letrado, dicha Unidad Fiscal dispuso la custodia del denunciante por efectivos de la Policía de la Provincia de Buenos Aires, agregando que el Sr. Pino posee contención psicológica de la Municipalidad de Ensenada.

76. Asimismo, el Fiscal General resolvió remitir copia de la documentación al Juzgado Federal N° 1, Secretaría N° 1 (juzgado donde tramita la causa n°16418 “Félix Crous s/denuncia” en la que el Sr. Pino es víctima y testigo) solicitando se convoque al denunciante para informarle acerca de los distintos sistemas de asistencia y seguridad de testigos existentes. El objetivo es que tanto el Sr. Pino como su familia puedan evaluar si desean y se encuentran en condiciones objetivas para ingresar a algunos de estos sistemas.

77. A la vez se solicitó a la UFI n°11 de La Plata que informe el estado de las actuaciones abiertas con motivo de la denuncia formulada por el Sr. Pino. Por último, la Secretaría de Derechos Humanos ha solicitado dicha información a fin de completar la respuesta del Gobierno, el cual se compromete a mantener informados a los Señores

Relatores respecto a los avances que se produzcan en el caso antes mencionado, y a remitir cuando se reciban, cualquier otra información producida por otros organismos.

78. La carta fechada 28 de enero de 2009 confirmó los hechos del secuestro del Sr. Nahuel Pino: tuvo lugar el 17 de agosto del 2008 a las 15h30; sus secuestradores le colocaron una bolsa en la cabeza y le precintaron las manos, lo quemaron con un cigarrillo y le amenazaron; el Sr. Nahuel Pino fue liberado a las 17h30.

79. También la carta comunicó que, de la investigación judicial llevada a cabo surgió la realización de una inspección ocular donde fuera privado de libertad el Sr. Nahuel Pino. Asimismo, se realizó un conocimiento médico legal a la víctima, a cargo de la Policía Científica de la Provincia de Buenos Aires.

80. La misma carta comunicó que el Sr. Nahuel Pino es citado para ampliar su testimonio y aclara puntos específicos de su denuncia. La Fiscalía actuante, solicita a la Fiscalía General, un instructor especializado en derechos humanos. La Fiscalía actuante aún no ha imputado a ninguna persona en virtud de no haberse identificado persona o personas involucradas en el hecho.

81. Las dos cartas aseguraron que el Gobierno mantendría informados a los Señores Relatores respecto a los avances que se produzcan en las investigaciones relacionadas con el caso.

### **Llamamiento urgente**

82. El 8 de octubre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión enviaron un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el secuestro del Sr. **Emanuel San Martín**, un educador del Hogar Juan XXIII. Dicho hogar forma parte del Movimiento Nacional Chicos del Pueblo, una red de más de 300 organizaciones fundada por la organización Pelota de Trapo para defender los derechos humanos en Buenos Aires.

83. El 5 de agosto de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos envió un llamamiento urgente al Gobierno en relación con el allanamiento en la Escuela Gráfica Manchita de Pelota de Trapo llevado a cabo por ocho hombres armados, y el secuestro de un joven del Hogar Juan XXIII. Hasta la fecha no se ha recibido respuesta de su Gobierno.

84. De acuerdo con las nuevas informaciones recibidas, el 26 de septiembre de 2008, aproximadamente a las 20h20, el Sr. Emanuel San Martín habría sido secuestrado a cuatro cuadras del Hogar Juan XXIII por cuatro hombres, dos de ellos encapuchados, quienes le habrían ordenado subir a una camioneta donde habría sido golpeado brutalmente. El Sr. San Martín habría sido amenazado para que dejara de trabajar en el

Hogar Juan XXIII y para que abandonara su campaña, refiriéndose a la campaña el Hambre Es un Crimen.

85. Se expresó preocupación que el secuestro del Sr. Emanuel San Martín podría estar relacionado con sus actividades legítimas en la defensa de los derechos humanos de los niños y jóvenes bonaerenses. Se expresó preocupación por la integridad física y psicológica del Sr. Emanuel San Martín. Este incidente se enmarcó en un contexto de vulnerabilidad de los defensores de los derechos humanos que se relacionan con Pelota de Trapo y el Movimiento Nacional Chicos del Pueblo.

### **Respuesta del Gobierno**

86. Mediante carta fechada 16 de enero de 2009, el Gobierno respondió al llamamiento urgente. La carta comunicó que, el 1 de octubre de 2008, funcionarios de la Secretaría de Estado mantuvieron una reunión con integrantes de la fundación Pelota de Trapo quien les informaron que dicho organismo y personal vinculado al mismo habrían sido víctimas en tres ocasiones – hasta ese entonces – de amenazas e intimidaciones por un grupo de personas no identificadas.

87. Asimismo, los integrantes de la fundación infamaron los funcionarios que diversas autoridades provinciales se habían contactado con ellos, recibieron una comunicación del Gobernador de la Provincia de Buenos Aires y mantuvieron una reunión con el Jefe de Gabinete, con el Ministro de Seguridad y con la Secretaría de Derechos Humanos.

88. Los funcionarios informaron las gestiones realizadas desde la Secretaría Nacional, específicamente, declararon el haber solicitado varios informes mediante note, al Ministerio de Seguridad y Secretaría de Derechos Humanos de la Provincia de Buenos Aires y a la Unidad Fiscal de Investigaciones con competencia en el caso. Asimismo, el Subsecretario de Protección de Derechos Humanos, realizó las gestiones tendientes para recibir al Sr. Hugo Yaski quien acompañó a los miembros de la fundación Pelota de Trapo en la presentación de sus reclamos. Cabe destacar que el 2 de octubre de 2008, los presentantes fueron recibidos por el señor Ministro de Justicia, Seguridad y Derechos Humanos de la Nación, Dr. Aníbal Fernández.

89. La carta comunicó que el 25 de abril de 2008, el primer episodio intimidante tuvo lugar en la Escuela Gráfica Manchita, situada en Avellaneda que pertenece a la Fundación Pelota de Trapo. Allí, un grupo comando de 8 personas a cara descubierta ingresó en el lugar al mediodía encerrando a todos los que se encontraban en la institución, robándoles objetos de valor y algo de dinero.

90. Según la carta, el 24 de julio en el Hogar Juan XXIII ubicado en Gerli, se secuestró un joven de 16 años cuando estaba saliendo del lugar, a las 06h00. En esa ocasión fueron 4 personas encapuchadas que lo amenazaron, diciéndole que si no dejaban de hacer lo que estaba haciendo iban a quemar la imprenta, la casa del niño y la panadería, todas las dependencias donde se desarrollan proyectos de la fundación.

91. La carta afirmó que según la información policial recibida, el 26 de septiembre del 2008 por la noche, secuestraron al Sr. Emanuel San Martín que estaba ingresando al Hogar Juan XXIII. Según la carta, el Sr. San Martín fue interceptado por un hombre, que lo tomo del cuello. En ese instante un sujeto con pasamontañas desciende de un vehículo color azul haciéndose subir al Sr. San Martín. Que lo comienzan a golpear, colocándole un precinto en las manos y amenazándole durante aproximadamente 30 minutos hasta que lo hicieron descender.

92. De la información recibida del Ministerio del Relaciones Exteriores, Comercio Internacional y Culto del Ministerio de Seguridad de la Provincia de Buenos Aires y Secretaria de Derechos Humanos, pudo comunicar que con respecto a los hechos ocurridos el 25 de abril de 2008, se ha informado que la investigación se encuentra en plena etapa instructora con el fin de dar con los autores de los hechos. Acerca de las gestiones realizadas se comunicó que con respecto al último hecho acaecido el 26 de septiembre, se hicieron presentes en el Hogar Juan XXIII el Jefe Distrital y el Fiscal de la Unidad Funcional N°4, y allí recibieron la denuncia.

93. Según la carta., la víctima, el Sr. Emanuel San Martín fue trasladado al Hospital Presidente Perón donde le efectuaron placas radiográficas. Le informaron que presentaba equimosis en región renal izquierda y sangrado de fosa nasal izquierda.

94. La carta destacó que el Sr. San Martín y su abogado recibieron distintas declaraciones testimoniales, y se les informó al ministerio que hay audiencias designadas para recibir otras y se realizó la reconstrucción del hecho con la presencia de la víctima, del Fiscal, del personal de la Fiscalía así como del Director del Hogar Juan XXIII. El abogado del Hogar Juan XXIII informó al Ministerio que se encuentra siendo objeto de las pesquisas una camioneta.

95. En relación con la disposición de custodia policial, la carta se informó que las medidas adoptadas para garantizar la seguridad del Sr. Emmanuel San Martín y los demás miembros del Hogar Juan XXIII, consisten en consignas fijas de personal policial perteneciente a la División de Custodia de la Provincia de Buenos Aires a los efectos que custodien la fundición Pelota de Trapo.

96. La carta aseguró que el Gobierno mantendría informados a los Señores Relatores respecto a los avances que se produzcan en el caso antes mencionado

### **Llamamiento urgente**

97. El 4 de diciembre de 2008 el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y la Relatora Especial sobre la situación de los defensores de los derechos humanos enviaron un llamamiento urgente, señalando a la atención del Gobierno la información recibida en relación con los supuestos secuestros de la Sra. **María Isabel Almeida** y el Sr. **Emanuel San Martín**, educadores del Hogar Juan

XXIII; el Sr. **Reymundo Sacca**, un sereno voluntario del mismo hogar; la Sra. **Viviana Dadario**, una educadora de la Red el Encuentro en José C. Paz; y la supuesta intimidación de otros educadores del Hogar Juan XXIII y miembros de la organización Pelota del Trapo.

98. El Hogar Juan XXIII y la Red el Encuentro forman parte del Movimiento Nacional Chicos del Pueblo, una red de más de 300 organizaciones fundada por Pelota de Trapo para defender los derechos humanos de los niños en Buenos Aires. El Movimiento Nacional Chicos del Pueblo lanzó la campaña “El Hambre Es un Crimen” en el Parroquia Santa Cruz el 18 de abril de 2008, en Mar de Plata el 18 de julio de 2008, y en Santa Fe el 4 de noviembre de 2008.

99. El 5 de agosto de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos envió un llamamiento urgente al Gobierno en relación con el allanamiento en la Escuela Gráfica Manchita de Pelota de Trapo llevado a cabo por ocho hombres armados, y el secuestro de un joven del Hogar Juan XXIII. El 8 de octubre de 2008, dos titulares de mandatos enviaron un llamamiento urgente en relación con el secuestro del Sr. Emanuel San Martín. Se agradeció la respuesta del Gobierno a la primera comunicación, recibida el 28 de octubre de 2008.

100. De acuerdo con las nuevas informaciones recibidas, el 2 de octubre de 2008, una reunión habría tenido lugar entre representantes del Movimiento Nacional Chicos del Pueblo y el Ministro de Justicia y Seguridad. El 3 de octubre de 2008, la Sra. María Isabel Almeida habría sido secuestrada y amenazada para que cesara la campaña “El Hambre Es un Crimen”. El 24 de octubre de 2008, educadores del Hogar Juan XXIII y Pelota de Trapo habrían recibido amenazas telefónicas.

101. El 12 de noviembre de 2008, la Sra. Viviana Dadario habría sido secuestrada y golpeada. El mismo día, una maestra del Hogar Juan XXIII habría sido interceptada por un coche. Los que conducían le habrían mostrado un papel volante de la campaña “El Hambre Es un Crimen” y le habrían dicho “los próximos son los pibes”.

102. El 24 de noviembre de 2008, aproximadamente a las 15h00, la Sra. Viviana Dadario habría sido secuestrada de nuevo a pocas cuadras de la Red el Encuentro por dos individuos armados. La habrían ordenado subir a un coche negro de vidrios polarizados. Durante el secuestro, habrían mandado mensajes de texto a tres miembros de la Red el Encuentro. Después de aproximadamente una hora y cuarenta minutos, habrían enviado un mensaje diciendo que la iban a dejar en una plaza de Chacarita. La Sra. Viviana Dadario habría sido encontrada boca arriba y narcotizada en una plaza enfrente del Cementerio de Chacarita en Capital Federal.

103. El 26 de noviembre de 2008, representantes del Movimiento Nacional Chicos del Pueblo se habrían entrevistado con el señor Gobernador de la Provincia de Buenos Aires, el Ministro de Seguridad y el Ministro de Justicia. El 27 de noviembre de 2008, aproximadamente a las 7h00, el Sr. Emanuel San Martín, habría sido secuestrado por segunda vez cerca del Hogar Juan XXIII. Dos hombres encapuchados le habrían

ordenado subir a un vehículo Kangoo azul marino con vidrios polarizados, conducido por una mujer. Después de los acontecimientos anteriores se habría asignado una custodia para vigilar la zona pero no se habría encontrado en ese momento. Los secuestradores se habrían comunicado por mensajes de texto enviados del celular del secuestrado a educadores del Hogar y de Pelota del Trapo antes de dejarle narcotizado en la Plaza de la Estación Constitución.

104. El 28 de noviembre de 2008, aproximadamente a las 9h00, el Sr. Reymundo Sacca, habría sido secuestrado a pocas cuadras de la fundación, esta vez en un vehículo Kangoo gris con vidrios polarizados. Los secuestradores habrían usado el celular del secuestrado para mandar mensajes y le habrían dejado en el Hipermercado Coto de Lanús.

105. El 30 de noviembre de 2008, habría ocurrido un intento a secuestrar a uno de los jóvenes que había vivido en el hogar Pelota de Trapo. Un vehículo Volkswagon Fox gris le habría perseguido y los que conducían le habrían llamado por su nombre de pila. Durante ese fin de semana, vehículos habrían circulado por las instalaciones de Pelota de Trapo permanentemente.

106. Se expresó preocupación que las amenazas, las intimidaciones, y los secuestros mencionados arriba podrían estar relacionados con el trabajo de los miembros del Movimiento Nacional Chicos del Pueblo en la defensa de los derechos humanos, en particular los derechos de los niños, a través de la campaña “El Hambre Es un Crimen”. Se expresó gran preocupación por la integridad física y psicológica de los miembros de este movimiento así como los niños cuyos derechos defienden. Estos hechos, de ser confirmados, se enmarcaban en un contexto de gran vulnerabilidad de los miembros del Movimiento Nacional Chicos del Pueblo.

## **Observaciones**

107. La Relatora Especial agradece la información proporcionada por el Gobierno de Argentina en relación con cuatro de sus comunicaciones. La Relatora Especial expresa preocupación por varios casos de supuestas amenazas dirigidas en contra de defensores cuyo trabajo está enfocado en violaciones a los derechos humanos durante la dictadura militar y en contra de defensores de los derechos de niños y jóvenes.

## **Armenia**

### **Urgent appeal**

108. On 3 April 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning a group of protesters taking part in reportedly peaceful demonstrations in Yerevan between 25 and 27 March 2008, including Mr. **Levon Ter-Petrossian**, former President of the Republic of Armenia



and candidate in the presidential election of 19 February 2008 for the Armenian National Movement (ANM), Mr. **Aleksandr Arzoumanian**, former foreign minister under the Presidency of Mr. Ter-Petrossian, and Mr. **Ararat Zurabian**, Chairman of the Board of the ANM.

109. According to information received, on 25 and 26 March, at least 60 opposition supporters in Yerevan were arrested and detained by police. The protesters were reportedly peacefully demonstrating against restrictions imposed on public assemblies and gatherings, through new legislation passed on 17 March following the presidential elections and the subsequent imposition of a state of emergency declared by the incumbent President Kocharian on 1 March, which lasted for 20 days.

110. The protesters arrested on 25 and 26 March were all reportedly released after several hours in detention, but reports indicated that, on 27 March, another 21 opposition supporters were arrested and detained. These individuals were believed to remain in detention but it was not known whether any charges had been brought against them. Members of another opposition party, the Republic Party, and officials who refused to provide false testimony against opposition activists, had also been arrested.

111. It is believed that a total of 102 persons had been subjected to two months of pre-trial detention and charged with crimes related to the incidents of 1 March pursuant to one or more of the following articles of the Armenian Criminal Code: 225 (mass disorder), 235 (illegal possession of weapons), 300 (usurping state power), 301 (public calls of changing the constitutional order by force), or 316 (violence against a representative of authorities).

112. In a number of cases detainees were held incommunicado for days. Relatives of the detainees were not informed about the place of detention or even the fact of their detention. It is further reported that protocols of detention were falsified to give the wrong impression that the applicable 72 hours rule, according to which an arrested person must be presented before a judge or released, had been formally observed. A number of detainees had been detained incommunicado for up to 10-12 days. Numerous obstacles were put up to prevent the detainees from exercising their right to access to counsel, including requirements for the investigator's signature before being able to visit clients in pre-trial detention facilities or intimidating detainees in order to make them sign a document voluntarily refusing access to counsel. Some of the detainees showed visible signs of abuse when eventually permitted to receive visits.

113. Mr. Ter-Petrossian was taken from Liberty Square in the capital of Yerevan on 2 March 2008 by members of the presidential security squad after police and security forces had dispersed demonstrations by supporters of the opposition, which, according to official records, resulted in the death of 8 persons and approximately 260 injured. Mr. Ter-Petrossian was taken to his house, which was surrounded by police. Authorities have denied that Mr. Ter-Petrossian is under house arrest and alleged that the measure was taken for his own protection. A freedom of movement petition filed on behalf of Mr. Ter-Petrossian was rejected. However, the court decided to assign the Prosecutor General's

Office to investigate into the reasons for the restrictions of movement imposed upon Mr. Ter-Petrossian. Mr. Aleksandr Arzoumanian and Mr. Ararat Zurabian were arrested on 10 March in Yerevan, taken to the headquarters of the National Security Service and charged with “plotting the violent overthrow of Government”.

114. Concern was expressed that the arrest and detention of the aforementioned individuals may be related to their activities in defense of human rights, particularly their peaceful exercise of the right to freedom of assembly and to take part in the conduct of public affairs. In view of reports of incommunicado detention further concerns were expressed for their physical and psychological integrity while in detention. Concern was also expressed as regards any legislation which seeks to curb the right to freedom of assembly.

### **Letter of allegations**

115. On 29 May 2008, the Special Rapporteur sent a letter of allegation to the government concerning Mr **Mikael Danielian**, chairman of the Helsinki Association – Armenia, a human rights organization based in Yerevan.

116. According to the information received, on the afternoon of 21 May 2008, Mr Mikael Danielian was a passenger in a taxi in Terian St. in Yerevan when he was approached by a man, who had got out of a nearby vehicle. The suspect’s name is known to the Special Rapporteur. The man allegedly punched Mr Danielian through the open car window at which point Mr Danielian got out of the taxi. The man reportedly continued to harass him, calling him a CIA agent who defended the interests of gay people and a ‘shame to Armenia’.

117. Reports indicated that the man then shot Mr Danielian with a pneumatic weapon. The latter was not seriously injured but sustained some injuries to his chest and neck and was treated for a sharp rise in blood pressure by an ambulance at the scene. Mr Danielian was taken to the police department of Kentron district police station, where an investigator ordered that he undergo a medical forensic examination on May 22. Witnesses reported that the man who shot Mr Danielian was also taken to a police station, although it was not known if any charges have been brought against him.

118. Concern was expressed that the shooting of Mr Danielian may be directly related to his work in defense of human rights, particularly in the aftermath of recent political turmoil in Armenia. Following these reports, serious concern was expressed for Mr Danielian’s physical and psychological integrity. The mandate-holder also requested that the Government refer to her predecessor’s urgent appeal of 3 April 2008 to which she looked forward to a response.

### **Observations**

119. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications of 3 April 2008 and

29 May 2008. She considers response to her communications as an important part of the cooperation of Governments with her mandate, and urges the Government to respond to the concerns raised by her.

120. The Special Rapporteur reminds the Government of the relevant provisions of the Declaration on human rights defenders, especially article 5 paragraph (a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully.

121. The Special Rapporteur reiterates her concern regarding Mr Danielian's physical and psychological integrity, and urges the government to transmit to her all relevant information regarding any investigation or prosecution into the case.

122. The Special Rapporteur wishes to thank the Government of Armenia for having responded favourably to her request for visit and will continue the dialogue with the Government in order to identify mutually acceptable dates for carrying out the visit.

## **Azerbaijan**

### **Letter of allegations**

123. On 24 June 2008, the Special Rapporteur, together with the the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent a letter of allegations to the Government in relation to Mr **Emin Huseynov**, Chairperson of the Institute for Reporters' Freedom and Safety (IRFS), and Messrs **Rasim Aliyev** and **Mirrehim Hasanov**, researchers for the organization. The IRFS is a non-governmental journalists' organization promoting freedom of expression.

124. According to information received, at midday on 12 June 2008, Emin Huseynov was observing and filming a protest outside the Presidential Administration Building in Baku. He was approached by a number of men in civilian clothes who detained him and brought him into the building. He was then interrogated for two hours by men in military uniforms as to the reasons for filming, and regarding the work carried out by the IRFS and the origin of the organization's funding. Upon his release, Mr Huseynov's confiscated documents and camera were returned to him. However, all of his photographs had been removed and he was threatened with arrest if he returned to that area. No explanation was given for his detention.

125. On 14 June 2008, Mr Huseynov was again detained, along with Mr Rasim Aliyev and Mr Mirrehim Hasanov, following a raid by police of an event to mark the 80<sup>th</sup> birthday of Che Guevara, which the three men were monitoring. These three men, together with others detained at the event, were taken to Nasimi District Police

Department 22, where Mr Huseynov protested against the photographing and fingerprinting of all those detained.

126. Mr Huseynov was then separated from all of the detainees and brought to another room with four police officers present. One of them told him, "I'll arrest you, I'll kill, I'll bury you." He was hit on the back of the neck several times with the handle of a gun, and asked that an ambulance be called, as he was having difficulty walking. Shortly thereafter, Mr Huseynov was taken out of the room and the police department. Mr Huseynov subsequently lost consciousness and was hospitalized at the Centralized Emergency Medical Assistance Hospital where he was diagnosed with head and brain trauma, but has since regained consciousness. Messrs Aliyev and Hasamov were released approximately seven hours later.

127. Concern was expressed that the detention of the three men and the ill-treatment of Mr Huseynov while in detention may have been directly related to their activities in the defense of human rights.

### **Urgent appeal**

128. On 30 July 2008 the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government regarding Mr **Nusrat Aliyev**, husband of human rights defender **Akifa Aliyeva**.

129. According to the information received, in July 2008, a criminal case was filed against Mr. Nusrat Aliyev under article 128 of the Criminal Code of Azerbaijan, for the alleged assault of Ms. Akifa Aliyeva's brother. On 24 July 2008, Mr Nusrat Aliyev was ordered to pay criminal damages and may face trial.

130. Ms Akifa Aliyeva, the wife of Mr Nusrat Aliyev is the Coordinator of the Ganja branch of the Helsinki Citizens' Assembly of Azerbaijan. She was involved in the defence of a member of the Ukrainian minority in Azerbaijan, and was threatened that if she continued involvement in the case, her husband would be arrested.

131. Concern was expressed that the harassment of Mr Nusrat Aliyev may be directly linked to his wife's legitimate work in the defence of human rights. In light of the events described above, further concern was also expressed for the physical and psychological integrity of Mr Nusrat Aliyev and Ms Akifa Aliyeva, as well as that of their son, Mr Javid Aliyev.

### **Urgent appeal**

132. On 26 August 2008 the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on

the question of torture, sent an urgent appeal to the Government regarding the detention and sentencing of Mr **Novruzali Mammadov**, Head of the Talysh Cultural Centre, and the detention of his son, Mr Emil Mammadov. Mr Novruzali Mammadov is a defender of the cultural rights of the Talysh people in the south of Azerbaijan.

133. According to information received, on 2 February 2007, Mr Novruzali Mammadov was called to the Ministry of Internal Affairs where he was interrogated about his participation at a science conference in Iran in 2004 and beaten. He was released but later detained again the following day when he was sentenced to 15 days' imprisonment for failing to cooperate with police officers. This sentence was passed despite the fact that Mr Novrulazi Mammadov was already over 65 and, according to a provision of Article 30 of the Administrative Code, citizens of that age cannot be sentenced to punishment such as custodial placement.

134. Mr Novrulazi spent 15 days in the Investigation Isolation Centre of the Ministry of Internal Affairs and was physically and psychologically pressurized to confess to espionage. He did not have access to legal support and his whereabouts were unknown to his relatives. On 17 February 2007, he was accused under Article 274 of the Criminal Code of high treason and espionage. He has been in detention since then.

135. On 24 June 2008, Mr Novruzali Mammadov was sentenced to ten years' imprisonment following a closed trial. His lawyer was reportedly not present when the verdict was announced in an empty room. Mr Novruzali Mammadov was charged with high treason and espionage. The charges were related to the gathering of information necessary to establish an administrative autonomy in Azerbaijani territories with a dense Talysh population and the damaging of Azerbaijan's image abroad through sending appeals to international organizations about human rights violations against Talysh people.

136. During his trial Mr Novruzali Mammadov pleaded not guilty and testified that he had been subjected to physical and psychological torture while in detention. The forms of torture to which he was allegedly subjected include beating, deprivation of food and water, interrogation at night, and threats against his family. He is currently awaiting the hearing of his appeal in detention at a pretrial prison. Following the sentencing of Mr Novruzali Mammadov, a number of clarifications were made with respect to the sentence. However, these clarifications were reportedly based on confessions of a journalist which may have been obtained through torture and ill-treatment.

137. Furthermore, on 16 July 2008, Mr Emil Mammadov, the son of Mr Navrulazi Mammadov, was detained for illegal possession of drugs. On 19 July 2008, he was sentenced to three months' pretrial detention before investigations were scheduled to start. However, because of a medical condition, Mr Emil Mammadov always carried prescription drugs and no information was given by police in relation to the drugs found on his person. He is currently detained in the investigatory jail of the Ministry of Justice without access to his family or legal representation, and potentially without access to the necessary medical care. Both Mr Emil Mammadov and his now deceased brother have

reportedly been abducted and subjected to physical and psychological ill-treatment in the past.

138. Concern was expressed that the ill-treatment and sentencing of Mr Novrulazi Mammadov, as well as the detention of Mr Emil Mammadov, may be related to his legitimate activities in the defense of the cultural rights of the Talysh people. Further concern was expressed for the physical and psychological integrity of Mr Novrulazi Mammadov and that of his family members.

### **Observations**

139. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications of 24 June 2008, 30 July 2008 and 26 August 2008. She considers response to her communications as an important part of the cooperation of Governments with her mandate, and urges the Government to respond to the concerns raised by her.

140. The Special Rapporteur wishes to remind the Government of the provisions of the Declaration on human rights defenders, specifically article 6 paragraph (a), (b) and (c), which provide that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems. Article 6 paragraph (b) and (c) provide that everyone has the right (...) freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms.

## **Bahamas**

### **Letter of allegations**

141. On 20 May 2008, the Special Rapporteur sent a letter of allegations to the government concerning Mr **Emmanuel McKenzie** and Ms **Vanessa Small**, Chairman and Public Relations Officer respectively, of the Millar's Creek Preservation Group. The group is a non-profit organization dedicated to protecting the local environment of Millar's Creek, on the island of New Providence. In April 2008 the group began a campaign against the construction of a gated community and marina adjacent to the Creek, supported by the Bahamas National Trust.

142. According to information received, on Saturday 19 April, a fundraising event attended by about 300 people at a café in Millar's Creek Recreation Park, which is run by the organization, was interrupted shortly before midnight by the sound of gunshots, after which armed masked men reportedly entered and ordered everyone to lie on the ground. Emmanuel McKenzie was handcuffed and brought at gunpoint to a clearing in the park. When he asked what was happening, he was reportedly told to be quiet or he would be shot and a gun was pointed at his head.

143. Emmanuel McKenzie was reportedly later informed that this was a joint operation of the Royal Bahamas Police Force, Royal Bahamas Defense Force, Department of Immigration and Drug Enforcement Unit in search of illegal weapons and drugs. Several Haitian nationals who worked at the café were also arrested during the operation and detained overnight at the Carmichael Road Immigrant Detention Centre in Nassau, despite having valid work permits. One of them reportedly had his passport torn up by a member of the security forces during the operation. Some of the patrons of the event were reportedly struck by gun-butts by officers involved in the operation, which caused heavy bleeding to the face of one person, and others were trampled on as they lay on the ground.

144. Although no illegal goods were reportedly found on the property, Emmanuel McKenzie was not released from his handcuffs until 3.30 a.m. and was later charged with “intent to supply drugs” after it was alleged that he had offered marijuana to an undercover police officer in the Park on 18 April, however other witnesses alleged he was not present that day. He was reportedly told by police to appear in court to hear the charge on 30 April. However, the police issued an arrest warrant on 28 April on the grounds that he had failed to appear in court that day. The warrant was subsequently withdrawn but it was alleged that the wrong court-date may have been intentionally given. A new date was subsequently set for November.

145. Later that same week Vanessa Small, Public Relations Officer for the Millar’s Creek Preservation Group and also present at the fundraising event, observed a police vehicle parked outside her apartment. A formal complaint was reportedly made at police headquarters regarding alleged events of 9 April but it was not known whether any investigation had yet been initiated.

146. Concern was expressed that the events of 19 April, the judicial proceedings against Mr Emmanuel McKenzie, and the police presence at the residence of Ms Vanessa Small may have been directly related to the activities of both individuals in defence of human rights, particularly the protection of the environment in their capacity as members of the Millar Creek Preservation Group.

### **Response from the Government**

147. In a letter dated 25 August 2008, the Government responded to the communication, indicating that the summary of the facts as provided by Mr Emmanuel McKenzie and Ms Vanessa Small are not accurate. Specifically, the allegation in respect of the circumstances of the detention of Mr McKenzie are denied, in that he was not threatened with being shot and it is denied that any government officers tore up anyone’s passport. The issue relative to whether he was present on 18 April 2008 are matters which can be dealt with during the criminal trial of Mr McKenzie for possession of dangerous drugs with intent to supply; it should be recalled that the Bahamas has a functioning and impartial criminal justice system where the prosecution is required to prove beyond reasonable doubt any criminal offence alleged. Further, with respect to this criminal trial, it is denied that Mr McKenzie was given the wrong date as we have checked with the

Court and were informed that date given to Mr McKenzie was the adjourned date. The Government further advised that in the circumstances, there has been no violation by the Bahamas of the Declaration on Human Rights Defenders. Specifically, as suggested the Bahamas has not committed infringements against articles 1, 2, 5(b) and (c), and 12(2) and (3) of the Declaration. Suffice it to say, it is not admitted that Mr McKenzie and Ms Small along with others met on 19 April 2008 to “promote and to strive for the protection and realization of human rights and fundamental freedoms...” or “... assemble peacefully”, but that they were suspected of congregating for alternative reasons. Based on reports received by our chamber from the Royal Bahamas Defence Force; Royal Bahamas Police Force and Immigration Department, we advise that officers involved in a joint operation had a reasonable cause to suspect that individuals were engaged in criminal activities which included but were not limited to suspected illegal drug use and immigration violations. The Government further stated that it has been confirmed that a complaint has been lodged by Mr McKenzie with the Complaints and Corruption Unit of the Royal Bahamas Police Force and that such was relative to property which was seized from his premises and the conduct of the officers who conducted the joint operation. An investigation has been launched on the basis of Mr McKenzie’s complaint. Upon the conclusion of that investigation, any available public search can be provided. The Government also indicated that Mr McKenzie was arrested for possession of dangerous drugs but he was released from custody and instructed to attend the Carmichael Road Police Station which was charged with dealing with his case. On 28 April 2008, Mr McKenzie was charged with the aforementioned offence and he was subsequently arraigned at Magistrate’s Court #8 where he pled not guilty and was granted bail in the sum of \$7,500.00. Mr McKenzie’s case was adjourned until 27 November 2008. The Government concluded by indicating that in respect of the results of any criminal matters, this matter is still pending and upon its conclusion the results can be provided.

### **Observations**

148. The Special Rapporteur thanks the Government for its response.

## **Bahrain**

### **Urgent appeal**

149. On 10 January 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal to the government concerning Mr **Ali Jassim Meki**, a human rights defender with close links to the HAQ Movement of Liberties and Democracy, and the arrest and detention of the following eleven human rights defenders: Mr **Shaker Mohammed Abdul-Hussein Abdul-Aal**, Mr **Abdullah Mohsen Abdullah Saleh**, Mr **Maytham Bader Jassim Al-Sheikh**, Mr **Majid Salman Ibrahim Al-Haddad**, Mr **Ahmad Jaffar Mohammed Ali**, Mr **Hassan**



**Abdulnabi, Mr Nader Ali Ahmad Al-Salatna, Mr Hassan Abdelnabi Hassan,** members of the Unemployment Committee, as well as **Mr Najji Ali Fateel,** member of the Bahrain Youth Society for Human Rights, **Mr Mohammed Abdullah Al Sengais,** head of the Committee to Combat High Prices, and **Mr Ebrahim Mohamed Amin-Al-Arab,** founding member of the Martyrs and Victims of Torture Committee. They were reportedly all being detained at the Criminal Investigations Department, (CID) in Adliya. Mr Hassan Abdulnabi was the subject of a joint urgent appeal sent by mandate-holders on 14 December 2005. According to information received, on 17 December 2007 a demonstration was held in the Sanabis area, organized to commemorate victims of torture in the past. The demonstration was violently dispersed by members of the riot police and of the special security force. Tear gas and rubber bullets were employed by security forces and some participants were beaten.

150. After the demonstration, Mr Ali Jassim Meki returned to his home, where his condition rapidly deteriorated. He died some hours later on his way to hospital. The autopsy subsequently conducted by government-assigned doctors stated that he had died of natural causes. Mr Ali Jassim Meki's family requested a second opinion of an independent specialist, but was reportedly informed that there was none available in the country.

151. Following this, and other similar demonstrations, a number of people, including at least the aforementioned eleven human rights defenders, were arrested between 21 and 28 December 2007. All of them have been accused of having taken part in an 'illegal gathering and rioting' and of 'theft of a weapon and ammunition and possession of a weapon and ammunition without permission'. For the first ten days of their detention they were denied access to their lawyers, and interrogations carried out inside the detention chambers and at the Public Prosecutor's office were conducted without the presence of a lawyer. The Public Prosecutor is refusing to pass a copy of the case files, detailing the charges, to a group of lawyers defending the activists. Some of the human rights defenders have been ill-treated and possibly tortured while in detention. Visitors from human rights organizations have been refused access.

152. Concern was expressed for the physical and psychological integrity of the above-mentioned eleven human rights defenders while in detention. Further concern was expressed that the death of Mr Ali Jassim Meki and the arrest, detention and alleged ill-treatment of the eleven human rights defenders may be directly related to their work in defence of human rights.

### **Response from the Government**

153. On 26 February 2008, the Government responded to the joint communication sent on 10 January 2008, affirming its desire to guarantee the right of all persons to hold opinions without interference and the right to freedom of expression by peaceful means in accordance with the International Covenant on Civil and Political Rights, the Constitution and the law. The Government reported that the authorization of demonstrations and gatherings is governed by Act No. 32 of 2006, amending Legislative Decree No. 18 of

1973 on public meetings, demonstrations and gatherings. In 2007, a total of 324 demonstrations and gatherings were held; prior notice was given for 104 of these events and no notice was given for 220; most of the unauthorized demonstrations and gatherings were not halted or prevented. The Government of the Kingdom affirmed its ongoing commitment to allowing peaceful demonstrations, provided they are held in accordance with the law and participants do not engage in mob unrest or rioting punishable by law. The rioting that occurred on 17 December 2007 during illegal gatherings and demonstrations coincided with the Kingdom's celebrations of the national holiday, which is observed on 16 and 17 December every year, and endangered the lives and property of people celebrating the holiday. Some civil society associations and members of the Chamber of Deputies alleged that the police used excessive force in dealing with these events, and some claimed that the persons detained were tortured. The Minister for Internal Affairs explained the position to the Chamber of Deputies on 15 January 2008 in reply to a member's question about the necessary guarantees to safeguard human rights. He confirmed that the police had not infringed the applicable legislation and regulations. In addition, Ministry officials confirmed that the police had not used excessive force against the rioters and that the detainees had been taken to a forensic medical examiner, who had confirmed that none of them had been tortured and that all the measures taken with respect to them were in accordance with the law. The Government stated that the assertions in the urgent appeal regarding the death of Mr. Ali Jasim Mohamed Maki, and the events that preceded and followed it are not accurate: the demonstrators not only gathered illegally but were also carrying iron spits and Molotov cocktails. They set a police car on fire and stole guns from it, and they also attempted to kill police officers, as some of the accused persons admitted when questioned by the Department of Public Prosecutions. No complaints have been lodged with the Department of Public Prosecutions concerning the persons named in the urgent appeal. When questioned by the Department of Public Prosecutions, the persons who had been arrested and placed in preventive detention said nothing about having been attacked. Nevertheless, the Department ordered that they be examined by the forensic medical examiner to determine whether they had any injuries, and the forensic report confirmed the absence of any injuries. Regarding the death of Mr. Ali Jasim Mohamed Maki, on 17 December 2007 the competent security department was informed by the International Hospital of Bahrain that an individual had died there and that his body had been transferred to the morgue of Salmaniya hospital. Upon receipt of the report, the Department of Public Prosecutions, which is an independent judicial body, was notified and took the following steps. The head of the Department of Public Prosecutions went straight to Salmaniya hospital, examined the body and found no signs of injury. The Department of Public Prosecutions formed a tripartite commission chaired by the Department's senior forensic pathologist, with two doctors from Salmaniya hospital as members, in order to ascertain the cause of death. After confirming that the body bore no injuries, the commission conducted an autopsy and found that the cause of death was sudden circulatory arrest. None of the relatives of the deceased asked the Department of Public Prosecutions for a second opinion from an independent specialist. The autopsy was conducted in the presence of relatives of the deceased. The medical commission carried out the necessary medical tests in order to prepare the final medical report on the cause of death. The Government noted that the allegation that legal representatives were denied access to the accused is untrue,

as all but one of the accused decided during questioning to forfeit the right to have a lawyer present; the lawyer of the one person who did decide to ask for a lawyer was allowed to attend the examination proceeding, pursuant to article 134 of the Code of Criminal Procedure. The accused did not do this. The Department of Public Prosecutions, on the other hand, ordered that all the necessary facilities be provided to allow any of the family members or lawyers of the accused persons to visit them in their places of detention if they so wished.

### **Urgent appeal**

154. On 18 January 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, and the Special Rapporteur on freedom of religion or belief, sent an urgent appeal to the government concerning **Shaker Mohammed Abdul-Hussein Abdul-Aal, Majid Salman Ibrahim Al-Haddad, and Nader Ali Ahmad Al-Salatna**, members of the Unemployment Committee and human rights defenders who were released on 16 January 2008. Also in relation to the eight remaining detainees; Messrs **Naji Ali Fateel**, member of the Bahrain Youth Society for Human Rights (BYSHR); **Mohammed Abdullah Al Sengais**, head of the Committee to Combat High Prices; **Maytham Bader Jassim Al-Sheikh, Ahmad Jaffar Mohammed Ali, Hassan Abdalnabi, Hassan Abdelnabi Hassan, and Abdullah Mohsen Abdulah Saleh, all members of the Unemployment Committee; and Ebrahim Mohamed Amin-Al-Arab**, founding member of the Martyrs and Victims of Torture. All of the remaining detainees were being held at the Criminal Investigations Department, (CID) in Adliya. All of the aforementioned were detained after a series of arrests from 21-28 December 2007 following unrest and protests. All were the subject of an urgent appeal sent by mandate-holders on 10 January 2008.

155. According to new information received, they did not have access to their lawyers until approximately ten days after they were detained. Some of the detainees were continually handcuffed for one to two weeks, including while they ate and slept. They were refused access to washing facilities and were forced to lie on a cold floor and beaten and kicked as soon as they fell asleep. Some were forced to stand for three days. They were not permitted to speak to the other detainees and remained blindfolded for most of the time. The detainees were also not allowed to pray.

156. Witnesses had seen bruising and marks apparently stemming from beatings received by the men during their detention. One detainee was buried up to his neck and had a gun pointed at him. Threats were also made regarding the detainees' families. Furthermore, one of the detainees, Maytham Bader Al-sheikh had a stick put in his anus, resulting in rectal perforation.

157. Concern was expressed for the physical and mental integrity of the aforementioned human rights defenders. Further concern was expressed that their arrests and detention may have been linked to their activities in defense of human rights.

### **Letter of allegations**

158. On 21 January 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the government concerning Misses **Sadika Haron, Afrah Haron, Mariam Gasem, Amina Shokr, Sharifa Sayyid Gaafar, Fakhria Singace, Somayyia Singace, Zainab el Kaffas, Haifa Mohamed Taha, Sanaa Mohamed Taha, Zahra Khalil, Ms Fatimah Salman Gassem, Afaf Abdulhadi, Rabab Marhoon, Abdullah Mohsen, and Zainab Al Khawaja**; all female family members of political prisoners currently in detention following recent unrest in Bahrain, and Mr **Abdulhadi el Khawaja**, Director of the Bahrain Center for Human Rights, who was monitoring the demonstration.

159. According to information received, on 25 December 2007, the families of detained political prisoners, including some minors, were reportedly demonstrating at the General Prosecutor's premises to protest the absence of visitation rights. The demonstration was allegedly violently dispersed by agents of the Special Security Forces and the Women's Police, when the demonstrators stated that they would not leave the premises until such time as they had received information regarding those detained. Several of the demonstrators, including the aforementioned, reportedly sustained injuries as a result of the treatment they allegedly received, and some required hospitalization. Furthermore, it was reported that members of the Special Security Forces later came to the demonstrators' houses, while it is also alleged that plainclothes "armed militias" took part in suppressing the demonstration and violent house intrusions.

160. Concern was expressed that the alleged violent dispersal of the aforementioned demonstration and the reported incidents at the homes of demonstrators may be directly linked to their human rights activities, particularly their demands for visitation access to detained family members.

### **Response from the Government**

161. In a letter dated 3 March 2008, the Government responded to the communication sent on 21 January 2008. The Government objected to the description of the individuals in questions as "political prisoners currently in detention following recent unrest in Bahrain". The Government noted that there are no political prisoners in Bahrain and no persons arrested or detained because of their political views or activities. The individuals in custody are being held in connection with criminal inquiries pursuant to specific articles of Bahrain's criminal law. The allegations set out in the communication are inaccurate. On 24 December 2007 the family members of those in custody applied to the Public Prosecution to visit their relatives. The request was accepted immediately and a visit was peacefully carried out on the same day. On the following day, 25 December 2007, a number of female relatives of those in custody gathered at the premises of Public Prosecutor's Office, with the apparent intention of disrupting and intimidating staff and other visitors. A number of visitors, including foreign nationals, were driven away by the

commotion caused by the demonstrators. The Government reported that following rumors that one of the women demonstrators had been mistreated by police officers, the Public Prosecution immediately initiated investigations. These investigations clearly established that the demonstrators, a number of whom began shouting and screaming without reason, were observed from a distance by five uniformed police officers, four of them female. Allegations of the involvement of “plainclothes armed militias” or “special security forces” were found to be completely unfounded. The Government stressed that no force had been used against the demonstrators at any time and that no official claims or complaints to this effect were made by any of the demonstrators. During the demonstrations one of the protesters collapsed and was given medical attention, and was later transferred to the hospital. While media reports allege that a number of those involved were taken to hospital as a result of injuries sustained at the demonstration, the Government understands that no medical reports were issued as none of the demonstrators had been injured or mistreated in any way. The Government also stressed that the police officers in question exercised a restrained and understanding approach to the demonstration in recognition of the distressed state of those involved. The Government categorically denied that “violent house intrusions” took place at the homes of those involved in the demonstration. The Government also confirmed that regular weekly family visits continue to those in custody in connection with the incidents of 20 December 2007.

### **Urgent appeal**

162. On 20 February 2008, the then Special Representative, together with the Special Rapporteur on the question of torture, sent an urgent appeal to the Government regarding Messrs **Mohammed Abdullah Al Sengais**, head of the Committee to Combat High Prices; **Maytham Bader Jassim Al-Sheikh**, **Ahmad Jaffar Mohammed Ali**, **Hassan Abdalnabi**, **Hassan Abdelnabi Hassan**, and **Abdullah Mohsen Abdulah Saleh**, all members of the Unemployment Committee; and **Ebrahim Mohamed Amin-Al-Arab**, founding member of the Martyrs and Victims of Torture. They are being held at the Criminal Investigations Department (CID) in Adliya following their arrest on dates between 21 and 28 December 2007 after demonstrations. They face charges relating to participation in an ‘illegal gathering and rioting’ and to ‘theft of a weapon and ammunition and possession of a weapon and ammunition without permission’.

163. According to new information received, on 10 February 2008, Mr Mohammed Abdullah Al Sengais was handcuffed and dragged from his cell to the yard where he was beaten with an iron rod and sexually assaulted by two security agents named “Moftah” and “Parvis” in the presence of Sergeant Adnan Bahar. Mr Mohammed Abdullah Al Sengais is suffering from back pain as a result of the assault by security agents. He is detained in a cell measuring 1 metre by 2 metres, which is both dirty and infested with insects. He has also previously complained of severe headaches and he had been referred to a psychiatric hospital for treatment on 24 February 2008. However, due to the postponement of the detainees’ court-hearing, this appointment has been rescheduled for 28 February 2008.

164. Messrs Naji Ali Fateel and Hassan Abdulnabi Hassan were also subjected to beatings following their protest at the treatment of Mr Mohammed Abdullah Al Sengais. Messrs Naji Ali Fateel, Hassan Abdulnabi Hassan and Mohammed Abdullah Al Sengais are being forced to share their cells with people suffering from Hepatitis who are spitting blood in their presence. CIB officials have also threatened that they will sexually assault Mr Hassan Abdulnabi Hassan's wife.

165. As outlined in the urgent appeal of 18 January 2008, Mr Maytham Bader Jassim Al-Sheikh was raped. He was sodomised with a wooden stick and subjected to electrocution on different parts of his body, including his genitals. This ill-treatment is carried out under the instruction and supervision of CIB officials Sergeant Abdulaziz Al-Rumaihi, Sergeant Adnan Bahar, and Sergeant Abdulla Rashid.

166. A court hearing was scheduled for 4 February 2008, at the High Criminal Court. At approximately 10 a.m., in the absence of the human right defenders, the presiding judge informed the lawyers of the defendants that the court session would be postponed to 3 p.m., at which time the court hearing went ahead without the lawyers. The trial was further adjourned until 24 February 2008.

167. Serious concern was expressed for the physical and mental integrity of the aforementioned human rights defenders in view of reports of continued ill-treatment. Further concern is expressed that their arrests and detention may be linked to their activities in defense of human rights.

### **Response from the Government**

168. In a letter dated 16 June 2008 the Government responded to the communication sent jointly on 20 February 2008. The Government informed that the allegations contained in the communication were inaccurate. The individuals in question were arrested and detained in connection with criminal inquiries pursuant to specific articles in Bahrain's criminal law. The investigations relate to a violent gathering on 20 December 2007, during which participants assaulted police officers, set fire to a police vehicle and stole a weapon belonging to police officers. Following investigations, including eyewitness accounts, technical reports and analysis of pictures taken at the gathering, those responsible were identified, arrested and brought before the Public Prosecution for questioning on suspicion of offences including attempted murder, assault, illegal assembly, carrying of weapons, setting fire to a police vehicle and theft of a police firearm. The Government noted that the individuals in question are suspected of offences which cannot in any way be linked to, or justified by reference to, activities as human rights defenders. They were arrested and are detained on suspicion of involvement in violent attacks on police officers. They were accorded all their rights of visitation and legal representation, in accordance with the law. The Government noted that the allegations of mistreatment of those in custody are inaccurate. While no allegation of assault or mistreatment was made by these individuals when they first appeared before the Public Prosecution, medical examinations were nevertheless ordered, which subsequently confirmed that none of the detainees had sustained any injuries. The

Government reported that the allegation of torture or mistreatment of Mr Sengais, Naji Fateel, Hassan Abdulnabi Hassan, and/or Maytham Bader Jassim Al-Sheikh have been found by investigations to be completely unfounded. These investigations included medical examinations which concluded that no evidence could be found of any mistreatment or abuse. The Government also reported that Mr Al-Sengais appears to have been examined and treated in hospital on 30 December 2005 for an earlier head injury unconnected to his arrest or detention, and it is believed that his injury may be behind his current condition. The Government also noted that the persons concerned are held in adequate-sized cells which are cleaned daily. All individuals in question have been held in accordance with international norms and have been accorded all their standard legal and procedural rights throughout their time in detention. Furthermore, all prisoners are examined medically before being placed in custody, and in case they are found to be suffering from contagious diseases, they are isolated from other prisoners in individual cells. Therefore the allegations that any individual was forced to share a cell with prisoners suffering from hepatitis or other infectious diseases are unfounded. The Government repeated that the Ministry of Interior received no complaints or allegations of torture or mistreatment by or on behalf of the individuals in question.

### **Letter of allegations**

169. On 14 April 2008 the then Special Representative sent a letter of allegation to the Government regarding Ms **Najiya Abdulghaffar**, Vice-President of the Post Office Trade Union, affiliated to the Bahrain General Federation of Trade Unions (BGFTU).

170. According to information received, on 19 March 2008, Ms Najiya Abdulghaffar was informed that an investigation of her activities had been initiated by an investigation committee under the Ministry of Transport in Bahrain. This is reportedly the sixth investigation that has been launched against her since she was elected as Vice-President of the Post Office Trade Union in 2003. On 30 March 2008, Ms Abdulghaffar was summoned to appear before the investigation committee. The outcome of this interrogation remains unknown.

171. In 2003, Ms Abdulghaffar had addressed a letter to the Minister of Social Affairs, outlining the various problems faced by post office workers. This was followed by a petition signed by 200 workers supporting the activities of the newly-created trade union. At that time, all the employees who signed this petition - including Ms Abdulghaffar - were threatened with dismissal and with promotion freezing. Ms Abdulghaffar related these abuses to the press through various press releases and interviews in 2006 and 2007, in which she also mentioned the problems faced by post office workers, infringements to trade-union freedom as well as the constant discrimination and harassment against the members of her union in terms of pay rise, workload, and relocation.

172. Since then, the post administration has allegedly resorted to measures of intimidation against Ms Abdulghaffar as a reaction to the publication of her interventions in the media or to the exercise of her fundamental freedoms:

173. On 17 October 2006, she received a letter from the assistant of the Post Office Under-Secretary, threatening her with suspension of salary for three days, as a reaction to her press releases of August 2006;

174. On 23 November, 2006, she was summoned to appear before an investigation committee for a discussion on her press articles as well as her trade union activities. The committee decided to suspend her salary and professional activities for three days (from 23 to 25 January, 2007);

175. On 23 July and 10 October, 2007, she was again called before the investigation committee to explain herself on the information she published in the press in 2007;

176. On 14 January, 2008, another session of the investigation committee accused her of “wasting time” and “disobeying orders”;

177. On 28 January, 2008, she was accused before the same body of “attending a solidarity picket in support of trade unions”. As a consequence, she was suspended from work for 10 days (from February 9 to 14 and 16 to 19, 2008).

178. In addition, information received indicates that all contacts between her and other employees have been banned by the post office administration since 2006. Ms Abdulghaffar’s telephone and computer was removed from her office, and the administration decided to stop giving her work duties. At the end of 2007, Ms Abdulghaffar was given a bad evaluation mark from her employers, who decided to freeze her salary indefinitely.

179. Concern was expressed that the alleged acts of harassment of Ms Abdulghaffar may be directly related to her activities in defense of human rights, particularly her exercising of labor rights.

### **Response from the Government**

180. In a letter dated 16 June 2008, the Government responded to the communication sent on 14 April 2008. The Government underlined its commitment to upholding, protecting and promoting human rights in accordance with the relevant International Labour Organization standards. The Government noted that the allegations contained in the communication are inaccurate. The employee in question has not been suspended from work without pay as a result of any legitimate activities in defence of human rights as stated, but as a result of having committed several breaches of civil service laws and regulations which have been approved by the Chambers of the National Assembly. An investigation committee under the Ministry of Transport of the Kingdom of Bahrain found such allegations to be a breach of specific service regulations, and recommended the employee be suspended from work and salary for a period of ten days. The Government noted that the Civil Service Law contains provisions for employees to appeal and seek redress regarding sanctions issued against them through various administrative remedies, which are also available for Ms Abdulghaffar. Ms Abdulghaffar



has filed a lawsuit against the Ministry of Transportation (No. 2139/2007) which is currently before the competent court.

### **Urgent appeal**

181. On 30 May 2008 the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture sent an urgent appeal to the Government of Bahrain regarding the following human rights defenders, Messrs **Shaker Mohammed Abdul-Hussein Abdul-Aal**, aged 26, **Sadeq Jawad Ahmed Al-Fardan**, aged 27, and **Hasan Kathom Ebrahim Ahmed**, aged 30, members of the Unemployment Committee; **Ali Mohamed Habib Ashoor**, aged 31, and **Habib Mohamed Habib Ashoor**, aged 20, of the Committee for Detainees; **Fadhel Abbas Mohamed Ashoor**, aged 25, of the Committee Against High Prices; and **Sayed Omran Hameed Adnan**, aged 24, of the Committee Against One Percent.

182. According to the new information received, since their arrest in early April 2008, they have reportedly been tortured, beaten, held in solitary confinement and deprived of food and sleep. A form of torture known as Falaqah has been applied on them, whereby a hard stick is inserted between the detainee's cuffed hands and tied legs, and then used to suspend the detainee in the air for hours with his legs facing upwards and his blind-folded head facing downwards. The detainee's feet are then beaten until he makes a confession or loses consciousness.

183. The men are reportedly held without charge or access to lawyers and access to families have been restricted.

184. Serious concern was expressed for the physical and mental integrity of the aforementioned human rights defenders in view of the reported ill-treatment. Further concern was expressed that their arrest, detention and treatment amounting to torture may be related to their non-violent activities in defense of labour rights in the country. The above mentioned allegations added to other serious allegations raised by mandate holders regarding cases of torture of detained human rights defenders in Bahrain, and serious concern is expressed over this apparent emerging trend of repression against human rights defenders in the country.

### **Response from the Government**

185. In a letter dated 14 August 2008 the Government responded to the communication sent on 30 May 2008. The Government informed that in accordance with the Criminal Code of Bahrain, the Department of Public Prosecutions launched an investigation into the unlawful acts with which the persons named in the urgent appeal were charged. The Department of Public Prosecutions charged the 19 persons named in the urgent appeal with participating in a public gathering without prior permission from the competent

authority, in violation of the Public Gatherings and Processions Act. Regarding the deliberate and premeditated murder by ambush of police officer Majid Asghar Ali, the Government reported that the accused had resolved to set fire to any police vehicle passing by the crime scene and to murder the occupants, to which end they had prepared Molotov cocktails and stones and set an ambush at a point where they were certain a police vehicle would pass. When the vehicle occupied by the victim approached, they attacked it with the said implements with the intention of murdering the occupants, and thus caused the fatal injuries described in the forensic report on the victim. The deliberate and premeditated attempted murder of Salih Ali Salih and Ammar Mus'id Hammud by ambush. The accused had resolved to set fire to any police vehicle passing the crime scene and to murder its occupants, to which end they had prepared a Molotov cocktail and stones and set an ambush at a point where they were certain a police vehicle would pass. When the vehicle occupied by the victims approached, they attacked it with the said implements with the intention of murdering the occupants. However, their attempt was thwarted, for reasons beyond their control, namely, the decision of the victims to get out of the vehicle and the resistance put up by the second victim. An arson attack against Ministry of the Interior vehicle No. 93604, endangering lives and property. The accused surrounded the vehicle and attacked it with Molotov cocktails, setting parts of it on fire.

186. The Department of Public Prosecutions charged 15 persons named in the urgent appeal with the following. Gathering in a public place, without prior permission from the competent authority, in violation of the Public Gatherings and Processions Act, and setting fire to the immovable and movable property of Shaykh Abd al-Aziz bin Atiyah Allah Al Khalifah by throwing Molotov cocktails after dousing them with flammable material (gasoline) and setting fire to them, thus endangering lives and property. The Department of Public Prosecutions referred the persons named in the aforesaid cases to the High Criminal Court on the charges against them and submitted a range of evidence, the most important being: confessions by a number of the accused; confessions implicating some of the other defendants; witness statements from policemen and others; forensic evidence and reports; and photographs showing the accused committing the offences. Although the persons who were arrested and detained did not complain to the Department of Public Prosecutions when interviewed about any assault, the Department ordered that they should be examined by a police doctor to ascertain whether they had sustained any injuries as a result of any assault. The medical reports found no sign of injuries. Shakir Muhammad Abd al-Hussayn Abd al-Al was charged with involvement in the second incident described above and was detained by order of the Court. All the cases have been referred to and are being considered by the High Criminal Court.

187. From the outset of the investigation into these incidents, the Department of Public Prosecutions ordered that the detainees should be provided with full legal guarantees, in order to enable the accused to present their legal defence in the presence of their defence counsel and in the framework established by law and to ensure that nothing would mar the integrity of the legal procedures followed by the Department of Public Prosecutions. The acts perpetrated by the accused are beyond the scope of freedom of opinion and freedom of expression and constitute offences punishable by law under the Criminal Code.

## **Letter of allegations**

188. On 28 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegations to the Government in relation to Messrs **Hassan Abdelnabi Hassan, Maytham Bader Jassim Al Sheikh** and **Abdullah Mohsen Abdulah Saleh** of the Unemployment Committee; Mr **Naji Ali Fateel** of the Bahrain Youth Society for Human Rights (BYSHR); Mr **Mohammed Abdullah Al Sengais**, head of the Committee to Combat High Prices; Mr **Ahmed Jaffar Mohammed Ali**, former member of the Unemployment Committee; and Mr **Ebrahim Mohamed Amin-Al-Arab**, founding member of the Martyrs and Victims of Torture.

189. All of the aforementioned were detained between 21 and 28 December 2007 following unrest and protests. All were the subject of urgent appeals sent by various mandate-holders on 10 January 2008 and 18 January 2008. We thank you for the response from your Government dated 26 February 2008.

190. According to new information received, on 13 July 2008, Mr Hassan Abdelnabi Hassan was sentenced to seven years' imprisonment and fined around 9,980 Bahrain Dinars. Messrs Maytham Bader Jassim Al Sheikh, Naji Ali Fateel and Mohammed Abdullah Al Sengais were sentenced to five years' imprisonment. Mr Ahmed Jaffar Mohammed Ali was sentenced to one year's imprisonment for taking part in the demonstration, violence against the police officers and setting fire to a government vehicle. The High Criminal Court found them guilty of offences such as burning a police jeep, illegal gathering and use of force against security officials. In addition, Mr Maytham Bader Jassim Al Sheikh was found guilty of theft of a government fire arm and possession of a fire arm without permission while Mr Naji Ali Fateel and Mr Mohammed Abdullah Al Sengais were found guilty of theft of government ammunition and possession of part of a fire arm without permission.

191. The judge of the High Criminal Court failed to consider medical evidence indicating that some of the human rights defenders may have been beaten while in detention. The medical evidence was not fully conclusive because the examination by independent forensic experts had been delayed.

192. Messrs Abdullah Mohsen Abdulah Saleh and Ebrahim Mohamed Amin-Al-Arab were acquitted.

193. On 18 July 2008, peaceful demonstrations, organized by family members of the detained in protest against the sentences, were violently dispersed by riot police. Tear gas and rubber bullets were used against the protesters. As a result, the four-year-old son of Mr Maytham Bader Jassim Al Sheikh was rushed to hospital in an ambulance.

194. The acquittals of Messrs Abdullah Mohsen Abdulah Saleh and Ebrahim Mohamed Amin-Al-Arab were welcomed. Concern was expressed that the sentencing of the other above-mentioned human rights defenders may not result from a fair trial and may be related to their work in the defense of human rights. Concern was also expressed that confessions obtained under torture may be the basis of the verdicts of those found guilty.

### **Observations**

195. The Special Rapporteur thanks the Government for the detailed replies to the majority of the communications sent. She regrets, however, that no response has been received so far to the communications sent on 18 January 2008 and 28 July 2008.

196. Regarding the arrest, detention and subsequent sentencing of the 19 persons mentioned in several communications, belonging to the Haq Movement of Liberties and Democracy, the Unemployment Committee, the Martyrs and Victims of Torture, the Committee to Combat High Prices, the Committee for Detainees and the Bahrain Youth Society for Human Rights, the Special Rapporteur remains concerned at the reported restrictions on the right of freedom of assembly. She wishes to remind the Government of article 5 paragraph (a) of the Declaration on human rights defenders, which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully. The Special Rapporteur also wishes to remind the Government of article 9 paragraph (1) of the Declaration, which establishes that in the exercise of human rights and fundamental freedoms (...) everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

197. While the Special Rapporteur acknowledges the responses received from the Government, she regrets that the Government did not give any explanations about how the measures taken are compatible with the Bahrain's obligations under international human rights law.

## **Bangladesh**

### **Letter of allegations**

198. On 8 February 2008, the then Special Representative sent a letter of allegations to the government concerning Mr **Mehedi Hasan** and Mr **Bent Gehrt**. Mr Hasan, a Bangladeshi national is an investigator for the Worker Rights Consortium (WRC), an independent monitoring organization focused on protecting the labour rights of workers, primarily in the garment industry. Mr Gehrt, a Danish national, is the WRC's South East Asia Field Director.

199. According to information received, on 24 January 2008, Mr Mehedi Hasan was detained in Dhaka by the Bangladesh intelligence service and was reportedly being held for interrogation. He was reportedly initially held at the National Security Intelligence office in Gulshan, before being transferred to Pallabi police station. At approximately the same time as Mr Hasan's arrest, Mr Gehrt, who was in Dhaka for a week working with Mr Hasan, was also detained at Dhaka airport and interrogated about the WRC's work for roughly an hour. He was reportedly eventually allowed to board a flight to Thailand. According to reports, both men had been under surveillance in the course of the previous week.

200. Mr Hasan was reportedly held incommunicado until the morning of 25 January 2008 when a member of his family was allowed to speak with him briefly. He also spoke very briefly with his lawyer. Mr Hasan was reportedly restrained with shackles at the time of these encounters. A hearing took place on 25 January, at which Mr Hasan was remanded to police custody for four additional days, for purposes of "further interrogation". Mr Hasan was reportedly released on 3 February and no charge was held against him. Concern was expressed that the arrest and detention of Mr Hasan and the interrogation of Mr Gehrt may be directly related to their work in defense of human rights, particularly the labor rights monitoring work they have performed on the WRC's behalf.

### **Response from the Government**

201. In a letter dated 31 June 2008, the Government responded to the communication of 8 February 2008. The Government reported that Mr Bent Gehr, a US citizen who is the field director of the Washington-based Workers Rights Consortium, came to Dhaka on tourist visa from 16-24 January 2008. During his stay in Dhaka he visited labour leaders of the garment sector. This is in contravention with the condition of his tourist visa. His indecent behavior warranted the Intelligence Agency to interview him at Zia International Airport. He was not interrogated and he was free to refuse to answer the questions asked and to leave the interview room.

202. National Security Intelligence (NSI) arrested Mehedi Hasan, representative of the Workers Rights Consortium (WRC) from Zia International Airport on 24 January 2008. The complaint was of inciting anarchy in the garment factories. He was released on 2 February 2008.

### **Urgent Appeal**

203. On 8 February 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Mr **Jahangir Alam Akash**, coordinator of the Task Force against Torture in Rajshahi, and regional coordinator of the Bangladesh Institute of Human Rights (BIHR) and a journalist working as the bureau chief of a private news television channel CSB News and Daily Sangbad, a Dhaka based national newspaper.

204. Mr. Alam Akash was the subject of urgent appeals sent by mandate-holders on 7 November 2007 and on 22 May 2007. While the government's reply, dated 26 November 2007 was appreciated, the mandate-holders wished to address new information received regarding Mr Jahangir Alam Akash.

205. According to new information received, Mr Jahangir Alam Akash currently faced at least three extortion charges which he denied. Although he was granted bail in relation to one of these charges on 16 October 2007, Mr Alam Akash was again arrested by members of Rapid Action Battalion (RAB) – 5, reportedly without a legal basis. He was tortured and later detained at the Rajshahi Central Jail for 28 days. On 8 November 2007, a magistrate ordered that the first case against Mr Alam Akash be dismissed; however, following the intervention of the Ministry of Home Affairs, another case was scheduled for hearing on 25 November 2007. On 2 January 2008, the High Court ruled that it stayed the case in which the Ministry of Home Affairs had intervened for three months, as the legality of that action was thought to be in question. However, a warrant for the re-arrest of Mr Alam Akash was issued on 7 January.

206. In the course of his work, Mr Jahangir Alam Akash has, on numerous occasions, disclosed alleged atrocities of the RAB in cases involving human rights violations. He has also received numerous death threats as a result of his journalistic work and has suffered physical assaults in the past following the publication of critical articles regarding local politicians. Concern was expressed that the charges brought against Mr Jahangir Alam Akash and the warrant for his re-arrest may be directly related to his work in defence of human rights. Furthermore, there were fears for the physical and psychological integrity of Mr Jahangir Alam Akash.

### **Response from the Government**

207. In a letter dated 29 May 2008, the Government responded to the communication of 8 February 2008. The Government reported that Mr Mafuzul Alam Loton lodged a FIR (First Information Report) with the Boalia Police Station stating that Mr Jahangir Alam Akash demanded money by criminal intimidation. The investigation officer examined the witnesses. On the basis of sufficient evidence, the investigating officer submitted charge sheet No 398, dated 30 October 2007 in the court. Mr Akash was arrested on 24 October 2007 and he was subsequently handed over to the Boalia Model Police Station.

208. The Government noted that the facts alleged in the communication were not accurate. The Government informed that Mr Akash was a yellow journalist and was engaged in illegal activities by using his profession as a shield. No complaint has been lodged by either Mr Akash or on his behalf with the police or the court. He has however submitted a writ petition to the Honorable High Court requesting bail, which he was later granted. The Government gave detailed information about the legal basis of the charges against Mr Akash.

209. He was granted bail from the Honourable High Court for which he should have surrendered to the lower court, but he failed to do so. For the violation of the bail conditions he was warranted for re-arrest by the court. The Government stressed that it was apparent from the investigation that no physical and mental torture was made against former CSB news reporter Mr Jahangir Alam Akash.

### **Urgent appeal**

210. On 16 April 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government concerning Dr **M A Hasan**, a civil society leader and member of the War Crimes Fact Finding Committee, an organization which investigates and compiles information on past human rights violations.

211. According to information received, Dr Hasan received threats following the publication by the War Crimes Fact Finding Committee, on 3 April 2008, of a list of people alleged to have committed war crimes during the war of independence in 1971. On 4 April 2008, three young men tried to forcibly enter Dr Hasan's residence, but were stopped by his family and their home security guard, after which the three left the area. On 5 April, a man twice telephoned the hospital where Dr Hasan works to ask about his whereabouts, and later two men reportedly came to the hospital making similar inquiries. On 8 April, Dr Hasan reportedly received a call from a man who said, "We are coming for you".

212. Concern was expressed that the series of threats directed against Dr M A Hasan may be directly related to his activities in defense of human rights, particularly his efforts, in his capacity as a member of the War Crimes Fact Finding Committee, to end impunity for perpetrators of past violations of human rights. In view of these threats, serious concern was expressed for the physical and psychological integrity of Dr Hasan and his family.

### **Response from the Government**

213. In a letter dated 17 April 2008, the Permanent Mission of the People's Republic of Bangladesh in Geneva responded to the above communication. The response stated that the contents of the communication had been duly noted and forwarded to the concerned authorities for necessary inquiries and action.

### **Letter of allegations**

214. On 8 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, sent a letter of allegations concerning Mr **Rabindra Ghosh**. Mr Ghosh is the President of the *Dhaka*

*Chapter of the Human Rights Congress for Bangladesh Minorities (HRCBM)*, a non-governmental human rights organization working in the defense of minority rights.

215. According to information received, Mr Ghosh has been subject to intimidation and threats following his investigation of a case of alleged land-grabbing concerning a piece of land in Jaintapur. This land was reportedly granted to four individuals belonging to a minority group but was then claimed by officials of the Jainta Press Club, who subsequently took possession of the property. Reports indicate that officers at Jainta Station refused to file a complaint on behalf of the four individuals who claim the land is their property.

216. On 29 April 2008, Mr Ghosh was contacted by a police officer, whose name is known to the Special Rapporteur, who warned him not to investigate the matter any further. This officer told Mr Ghosh that if he proceeded with the investigation he would have criminal charges filed against him. He also threatened Mr Ghosh that he would break his leg. Mr Ghosh reported this incident to the Deputy Commissioner of Sylhet, who reportedly did not pursue the complaint. Mr Ghosh subsequently filed a complaint regarding the incident at the Jaintapur Police Station.

217. Concern was expressed that the threats and intimidation of Mr Rabindra Ghosh may be directly related to his activities in defense of human rights, in particular land rights and rights of minority groups in Bangladesh.

### **Response from the Government**

218. In a letter dated 4 February 2009, the Government responded to the communication above. The Government reported that Mr Rabindra Gosh is the President of the Dhaka chapter of the Human Rights Congress for Bangladesh Minorities (HRCBM). He visited the Jaintapur Upazilla on 16 April 2008 to conduct an enquiry into a police case lodged in Jaintapur police station. He wanted to have a discussion with the Upazilla Nirbahi Officer (head of the Sub-District administration). Since he couldn't manage to communicate with him, they talked later over the phone. It has been alleged that during the phone conversation each side intimidated the other. They both filed a general diary with the Jaintapur police station to this effect. The matter relating to the land grabbing is pending before the court.

219. Neither Mr Rabindra Gosh nor the Upazila Nirbahi Officer did proceed any further with their complaints made against each other.

### **Urgent appeal**

220. On 6 October 2008, the Special Rapporteur, together with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal to the Government regarding the arbitrary detention of, and the failure to provide adequate medical treatment for, Mr. Rang Lai Mro, an indigenous leader of the Mro



indigenous community from Bandarban, in the Chittagong Hill Tracts (CHT). Mr. Rang Lai Mro is the head of Mrochet, a local NGO which works to improve the facilities available to the Mro people in the region. He has protested to the army about the security forces' efforts to evict hundreds of Mro families to make way for an army training centre in a remote part of the Bandarban Hill District. According to his lawyer, he has recently been preparing a petition for the authorities about the situation of Mro people in the area, and the army's action in driving them out of their homes.

221. According to new information received, following his arrest on 23 February 2007, Mr. Rang Lai Mro was sentenced to 17 years' imprisonment for possessing a pistol without a license. Mr. Rang Lai Mro is currently not being allowed access to adequate medical treatment for a serious heart condition which allegedly puts him at risk of a further heart attack at any time. Following his arrest, doctors at Bandarban General Hospital confirmed that he had suffered a heart attack. In October 2007, he was again treated in hospital and doctors stated that he needed to be transferred to a hospital with better equipment. However, he was returned to Chittagong District Jail, his health continues to deteriorate, and he has not been allowed access to adequate medical treatment, despite the fact that many other prisoners have been transferred to hospitals for specialist attention this year in Bangladesh.

222. Concern was expressed that the failure to provide adequate medical treatment for Mr. Rang Lai Mro may have been related to his activities in the defense of the rights of the Mro indigenous community in Bangladesh. Serious concern was expressed for the physical and psychological integrity of Mr. Rang Lai Mro.

### **Response from the Government**

223. In a letter dated 7 October 2008, the Government responded to the communication of 6 October 2008. The Government informed that the contents of the communication have been duly noted and forwarded to the concerned authorities in Bangladesh for necessary inquiry and action.

### **Observations**

224. The Special Rapporteur wishes to thank the Government for the detailed response provided to her communications and requests the Government to transmit substantive responses to the communications sent on 16 April 2008 and 6 October 2008.

## **Belarus**

### **Letter of allegations**

225. On 19 December 2007, the then Special Representative sent a letter of allegations to the Government concerning the **Belarusian Congress of Democratic**

**Trade Unions (BKDP).** The BKDP is the largest independent trade union organization in Belarus.

226. According to the information received, on 6 December 2007, at approximately 8.30pm, two members of the police from the local Lenin district of Minsk, accompanied by two other individuals dressed in plain-clothes, reportedly carried out a search of the offices of the BKDP without presenting a search warrant. The policemen arrested members of the BKPD who were at the offices at the time of the search, while also confiscating some of the equipment and documents. The BKPD members arrested were detained before being released. They had reportedly been summoned to court on charges of "hooliganism".

227. Concern was expressed that the search of the offices of the BKDP, as well the detention of and charges taken against some of its members may be related to the organization's activities, in particular its work to defend workers' rights in Belarus.

### **Letter of allegations**

228. On 8 April 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning Messrs **Vadim Borshchevskiy** and **Pavel Levinov**. Mr Vadim Borshchevskiy is a journalist and member of Female Centre "Adliga" and the Youth Centre "Seventh Side". Mr Pavel Levinov is a human rights lawyer and a member of the Helsinki Committee in Belarus, Female Centre "Adliga" and the Youth Centre "Seventh Side". Also in relation to searches of the offices of the women's rights organization Female Centre "Adliga", under the direction of Ms Olga Karatch and of the home of Ms Yelena Borshchevskaya, board member of the same organisation.

229. According to information received, between 25 and 27 March 2008, raids were carried out on the offices of the women's centre Adliga, during which items were removed without being recorded in accordance with regulations governing confiscation. These raids were reportedly carried out by members of the State Security Agency of the Republic of Belarus (KGB) and members of the Belarusian militia. On the morning of 25 March 2008, Vadim Borshchevskiy was reportedly arrested on Lenin Street, in Vitebsk, and subsequently detained for two hours at Zheleznodorozhnyy district militia station before being released. Reports indicated that there was no official record of the arbitrary arrest and detention.

230. On 26 March at 10.00, Yelena Borshchevskaya was approached by three plainclothes KGB agents at Vitebsk School No.39 where she teaches. The men produced a search warrant and then ordered Yelena Borshchevskaya to bring them to her home. En route she was prevented from using her mobile phone and her request to have a lawyer present was rejected. The men reportedly remarked that she could file a complaint regarding their actions afterwards. When they arrived at her apartment Yelena

Borshchevskaya was unable to open the door, as ordered by the men, because she did not have her keys.

231. When Yelena Borshchevskaya requested that there be witnesses present, the agents reportedly summoned two soldiers, after which they called a Local Housing Services worker and ordered him to open the door. When he refused, an employee of the Ministry for Emergency Situations came and forced the door.

232. Shortly thereafter, human rights lawyer Pavel Levinov arrived in order to observe the search. The most senior of the KGB agents, Major Skorionovich, accused him of “using foul language” and ordered his arrest. Pavel Levinov was subsequently taken to Pervomayskiy district militia station but while there, his blood-pressure rose sharply and he was taken to hospital. Upon his release, Mr Pavel Levinov reportedly initiated a dry hunger strike in protest at his treatment, during which he has reportedly lost 12 kgs.

233. The six-hour search of Ms Borshchevskaya’s residence reportedly resulted in the confiscation of equipment including computers, dictaphones, scanners and a large photocopier, as well as information saved in documents and on cassettes and discs. The agents conducting the search reportedly stated that it formed part of a criminal investigation. The search was alleged to be in contravention of Belarusian law which stipulates that witnesses must first be called for interrogation before their property is searched and prohibits forced entry of private residences.

234. Concern was expressed that the intimidation and harassment of Vadim Borshchevskiy, Pavel Levinov, Olga Karatch and Yelena Borshchevskaya may be directly related to their activities in defense of human rights activities. In light of reports concerning Mr Pavel Levinov, serious concern was expressed for his physical and psychological integrity, as well as that of the other aforementioned and all members of their organization.

### **Response from the Government**

235. In a letter dated 18 August 2008, the Government of Belarus responded to the letter of allegations of 8 April 2008. The Government response was based on information received from the Office of the Public Prosecutor of the Republic of Belarus. The Government informed that on the basis of a judgment by a judge of the Pervomayskiy district court in Vitebsk, of 26 May 2008, Mr Pavel Levinov was sentenced to 10 days’ administrative detention and a fine of 700,000 roubles for offences under articles 17.1 and 23.4 of the Code of Administrative Offences of the Republic of Belarus, namely petty hooliganism and refusing to follow lawful instructions from an official.

236. On 27 March 2008 at 3.55 p.m., on the 4th floor landing of 28-3 Chkalov Street in Vitebsk, Mr. Levinov committed petty hooliganism: in the presence of militia officers. He provoked a conflict, insulted a militia officer on duty and ignored the resulting requests and admonitions addressed to him, thereby breaching public order and disturbing the peace. In response to militia officers’ lawful demand that he accompany them in their

official car, Mr Levinov grabbed hold of the banister on the landing and refused to go to the militia station voluntarily, which constituted refusal to follow lawful instructions or demands from an official on duty.

237. Having been convicted of administrative offences, Mr Levinov lodged a complaint with the prosecutor's office for Vitebsk province regarding the actions and rulings of the judge and violations of procedural legislation, which, he claimed, had prevented him from appealing the judgment of conviction. Since Mr Levinov filed the complaint with the prosecutor's office instead of the president of the court, and since no stamp duty was paid, the prosecutor's office for the province legitimately refused to examine the substance of Mr Levinov's complaint, clarifying to the complainant the legally established procedure for submitting to the prosecuting authorities complaints in respect of judgements by judges in administrative offence cases.

### **Letter of allegations**

238. On 10 June 2008, the Special Rapporteur sent a letter of allegations to the government concerning Mr **Leaid Svetsik**, a local human rights activist from Vitsebsk.

239. According to information received, on 23 May 2008, Mr Svetsik's apartment was forcibly entered by three KGB officers. The agents showed Mr Svetsik a ruling of the Prosecutor's office which initiated criminal proceedings for "fomentation of national and religious enmity", under Article 130.1 of the Belarussian Criminal Code and named Mr Svetsik as a witness in a case of threats to certain citizens from the extreme-right organization Russian National Unity (RNE). During the 8-hour search of Mr Svetsik's home, his computer and various human rights publications were confiscated.

240. Mr Svetsik was then brought to Vitsebsk Province KGB office where he was interrogated. He was subsequently given a writ for the next interrogation. On 30 May 2008, Mr. Svetsik returned with his lawyer and signed a document rejecting the accusations of the public prosecutor. It was alleged that the judicial proceedings initiated against Mr Svetsik may be directly related to his activities in defense of human rights in Vitsebsk. In view of these reports, concern was expressed for the physical and psychological integrity of Mr Svetsik.

### **Response from the Government**

241. In a letter dated 18 August 2008, the Government of Belarus responded to the letter of allegations sent by the Special Rapporteur on 10 June 2008. The Government stated that, concerning the search conducted at the apartment of Mr Svetik, the Vitebsk provincial department of the Committee for State Security of the Republic of Belarus is investigating a criminal case under article 130, section 1, of the Criminal Code of the Republic of Belarus (Incitement of racial, ethnic or religious enmity or discord), brought in connection with the distribution around Vitebsk by persons unknown of leaflets

containing calls to incite enmity between ethnic groups and intended to tarnish the ethnic honour and dignity of persons of Jewish descent.

242. In the course of this investigation, on 23 May 2008, on the basis of a decision approved by the deputy prosecutor for the province, as the competent authority, that a search should be carried out, a search was undertaken in the presence of witnesses at Mr. Svetik's residence, as a result of which a laptop computer, printer, scanner and some compact discs were confiscated for further investigation. The search of Mr. Svetik's residence and the confiscation of office equipment took place not on account of his human rights activities but because certain materials in the criminal case gave grounds for suspecting him of committing an offence under article 130, section 1, of the Criminal Code. Mr. Svetik was declared a suspect, and, in accordance with the requirements of criminal procedure legislation, he was questioned as a suspect in the presence of a lawyer. The Government further informed that the preliminary investigation in this case is continuing.

### **Urgent appeal**

243. On 22 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government regarding Mr **Pavel Levinov**, human rights lawyer and member of the Belarus Helsinki Committee, a human rights non-governmental organization (NGO). A letter of allegation was sent by the Special Rapporteur on freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders on 8 April 2008, regarding the arrest and subsequent hunger protest of Pavel Levinov. No response from the Government has yet been received.

244. According to new information received, since he was arrested on 26 March 2008 after providing legal aid for journalist Vadim Borschevskiy, Mr Pavel Levinov made efforts, which included a 15-day hunger strike, to have his case investigated fairly. Nevertheless, on 26 May 2008, a court ruling was passed, in Mr Pavel Levinov's absence, condemning him to ten days of detention and a fine of 700,000 rubles. According to Mr Pavel Levinov, accusations against him were made by a senior militia officer and supported by subordinate officers acting under orders.

245. On 15 July 2008, Mr Pavel Levinov visited the Public Prosecutor of Vitebsk who promised to inquire into the matter. However, before any inquiries could be made Mr Pavel Levinov was approached outside the office of the Public Prosecutor by militiamen from a special militia troop who presented him with evidence of the court decision for him to be arrested for ten days. They brought him to Pershamayski District Militia Station. There, Mr Pavel Levinov fell ill and was taken to hospital. After a telephone conversation the cardiologist on duty at the hospital refused to admit Mr Pavel Levinov for treatment. On leaving the hospital he lost consciousness. He recovered in the hospital's resuscitation ward hours later. He was transferred directly from there to Pershamayski District Militia Station. Officials at the hospital where Mr Pavel Levinov

had been refused treatment would not answer questions about whether or not he was in a fit condition to be held in detention.

246. Mr Pavel Levinov was subsequently held in a temporal isolation centre in Vitebsk. He was visited by a doctor but had no access to legal aid. On 16 July 2008, Mr Pavel Levinov began another hunger strike.

247. Concern was expressed that Mr Pavel Levinov may have been detained as a result of his activities in defense of human rights. Further concern was expressed for the physical and psychological integrity of Mr Pavel Levinov. In light of reports that members of the Belarusian Helsinki Committee and other human rights activists in Belarus have been insulted on national Belarusian television over the last month, concern was also expressed about the situation of human rights defenders in the country.

### **Response from the Government**

248. In a letter dated 18 August 2008, the Government of Belarus responded to the letter of allegations sent on 8 April 2008. The Government reported that with regard to the investigation carried out in relation to Mr. V.P. Borshchevsky, the prosecutor's office for the city of Minsk is examining a criminal case brought against a group of individuals for committing offences under article 367, section 1, of the Criminal Code (Defamation against the President of the Republic of Belarus). During the investigation into this case, the need arose to conduct a search of Mr. Borshchevsky's apartment in Vitebsk. On 27 March 2008 a search was carried out at Mr. Borshchevsky's residence, on the basis of a decision approved by the deputy prosecutor for the city of Minsk that a search should be undertaken by officials of the Vitebsk provincial department of the Committee for State Security in compliance with the requirements of criminal procedure legislation. During the search, office equipment - a computer, printer, scanner, cassettes, discs and printing materials - was seized.

249. Following examination by the prosecutor's office for Vitebsk province of the complaint submitted on 31 March 2008 by Mr. V.P. Borshchevsky and Ms. E.N. Borshchevskaya regarding possible violations of criminal procedure legislation by officials of the Vitebsk provincial department of the Committee for State Security during the search, the complainants' allegations were not upheld. The items seized during the search were examined in the established manner, after which the prosecutor's office for the city of Minsk ruled that they should be returned to their owners. In the course of the investigation into this case, Mr. Borshchevsky was not detained. The Government also noted that the preliminary investigation in this case has been suspended.

### **Letter of allegations**

250. On 5 August 2008 the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of allegations to the Government concerning Ms **Zhanna Popova**, executive director of the Vitebsk Kurier Publishing

House where the Vitebsk Courier M newspaper is published; and Mr **Vyacheslav Andreev** and Ms **Olga Karatch**, both of whom are involved in the Our House Campaign for the promotion of human rights. Ms Olga Karatch is the leader of the campaign and head of the Female Centre “Adliga”, a women’s human rights organization.

251. Mr Vyacheslav Andreev was the subject of a letter of allegations sent by the then Special Representative of the Secretary General on the situation of human rights defenders on 23 November 2006. A response from the Government was received on 23 January 2007.

252. According to information received, on 23 July 2008, at approximately 7.50 a.m., officers from the Vitebsk Regional Department of Organized Crime (UBOP) carried out a search of the home of Ms Zhanna Popova. 11 diskettes, seven compact discs and other information-storage devices were confiscated. The officers also attempted to take a computer.

253. The officers claimed that the search was carried out in relation to a bombing in Minsk on 4 July 2008, and that Ms Zhanna Popova’s property was confiscated on the suspicion that it might contain instructions on how to build a bomb. However, reports suggest that the search may have been related to a letter written by Ms Zhanna Popova to the Chief of Vitebsk Police regarding confiscation of copies of the Vitebsk Courier M newspaper by Belarusian authorities on 24 April 2008.

254. After the search Ms Zhanna Popova was brought to the office of the UBOP for questioning. Mr Vyacheslav Andreev and Ms Olga Karatch followed in a taxi. Their taxi was then blocked by officers; they were pulled out of the taxi and brought to Zheleznodorozhny Police Precinct where attempts were made to take their fingerprints and photographs for a civic database. The three individuals were released after three hours.

255. Concern was expressed that the search on the home and the confiscation of the property of Ms Zhanna Popova, as well as the detention of all three human rights defenders, may have been directly related to their legitimate activities in the defense of human rights.

### **Response from the Government**

256. In a letter dated 3 September 2008, the Government responded to the above communication. At the time of the finalization of this report, a translation of the reply was not available.

### **Urgent appeal**

257. On 18 November 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal concerning Ms **Yana Paliakova**, a human rights defender, lawyer and member of the Human Rights Alliance of Belarus.

258. According to the information received, on 9 October 2008, Ms Yana Paliakova was attacked by an unidentified man as she entered her house in Salihorsk. She was hit on the head and back. The attacker also told her that “if she didn’t shut up, this would be her last warning”. As a result of the attack, she was diagnosed in hospital with concussion.

259. Following the medical check-up Ms Paliakova went to the Salihorsk police station to file a complaint. When she felt ill at the station and tried to go outside, a policeman grabbed her by her sweater and pushed her to the floor, causing a bruise on her hip.

260. Ms Paliakova previously lodged a complaint against the Salihorsk police station on 1 September 2008, concerning physical assault by the police that took place the previous day. Ms Paliakova was stopped by the district policeman Mr Pugachev and two other men, and taken to the regional office of Internal Affairs where she was hit on her arms and legs. Although Ms Paliakova lodged repeated complaints regarding this incident with the Public Prosecutor’s office and the District Prosecutor’s Office, no inquiry has yet been launched.

261. Ms Paliakova defended several victims of excessive violence of the police, and one of the cases resulted in the dismissal of a policeman.

262. Concern was expressed that the attacks on, and harassment of, Ms Paliakova was related to her activities as a human rights lawyer, acting on cases of excessive violence of the police. Further concern was expressed at the apparent lack of investigation and criminal proceedings in the cases of physical assault by members of the police forces.

### **Response from the Government**

263. In a letter dated 9 January 2009, the Government responded to the above communication. At the time of the finalization of the present report, a translation of the reply was not available.

### **Observations**

264. The Special Rapporteur thanks the Government of Belarus for the detailed responses provided to five of her communications. The Special Rapporteur urges the Government to transmit a response to the letter of allegations sent on 19 December 2007.

265. The Special Rapporteur remains concerned at the apparently very restricted environment in which human rights defenders are able to operate. In this connection, the Special Rapporteur wishes to remind the Government of the provisions contained in the Declaration on human rights defenders, in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, to promote and to strive



for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, *inter alia*, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

## **Bolivia**

### **Carta de alegaciones**

266. El 21 de enero de 2008, la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con la situación de los defensores y defensoras de derechos humanos y sus respectivas organizaciones; *inter alia*, la Sra. **Sonia Soto**, representante del Defensor del Pueblo en Santa Cruz, el Sr. **Leonardo Tamburini**, director del Centro de Estudios Jurídicos e Investigación Social (CEJIS), los integrantes del Centro de Investigación y Promoción del Campesinado (CIPCA) y todas las demás personas identificadas en una lista publicada en la provincia de Santa Cruz. El caso de CEJIS fue también objeto de otra comunicación enviada el 19 de enero 2005 por los titulares de mandato.

267. Según información recibida se habría colocado una lista de supuestos ‘traidores a Santa Cruz’ en la plaza principal de Santa Cruz. Se les habrían identificado a 47 personas en la lista (véase anexo), entre ellas la Sra. Sonia Soto, representante del Defensor del Pueblo en Santa Cruz y los directores y líderes de varias ONGs y movimientos campesinos e indígenas en la provincia. Se ignora la identidad de los autores de la lista. Esto se sumó al hostigamiento de integrantes de varias organizaciones de derechos humanos en Santa Cruz. Entre el 25 y al 26 de noviembre del 2007 una decena de personas habría entrado en las oficinas del Defensor del Pueblo y habrían prendido fuego a uno de los despachos. En los últimos tres años se habrían acosado y amenazado a varios integrantes del Centro de Estudios Jurídicos e Investigación Social (CEJIS) y el Director actual, el Sr. Leonardo Tamburini, habría afirmado que recibe amenazas de manera frecuente. Asimismo, se habría atacado a las oficinas del CEJIS y el Centro de Investigación y Promoción del Campesinado (CIPCA) en varias ocasiones - por última vez con el lanzamiento de una bomba Molotov a la sede del CEJIS en Santa Cruz – sin que se conozcan los autores ni los mandantes.

268. Se alegaba que tanto la publicación de la susodicha lista como el acoso a estas organizaciones y sus integrantes puedan estar relacionados con su trabajo en defensa de los derechos humanos. Asimismo, existía profunda preocupación por la integridad física y psicológica de todas las personas mencionadas.

### **Observaciones**

269. La Relatora Especial lamenta que al finalizar este informe, no se había recibido una respuesta a la comunicación de 21 de enero de 2008. La Relatora Especial considera que responder a las comunicaciones representa un elemento fundamental para la cooperación de los Estados con el mandato, es por ello que insta al gobierno boliviano a que le proporcione una respuesta tratando los asuntos mencionados

## **Bosnia and Herzegovina**

### **Urgent appeal**

270. On 30 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal to the Government concerning Mr **Branko Todorovic**, Executive Director of the Helsinki Committee for Human Rights, a branch of the International Helsinki Federation in Republika Srpska, Bosnia and Herzegovina. On 7 February 2004, Mr Branko Todorovic reportedly received death threats accusing him of being a NATO agent and threatening his family. This followed an article in which Mr Branko Todorovic criticised the lack of investigation into an attack against the President of the Milici Citizens' Association and a lack of will on the part of the Minister of the Interior to arrest suspected war criminals. For the last year Mr Branko Todorovic and his family were allegedly under the surveillance of an individual who used his car to attack Mr Branko Todorovic in late May 2008.

271. The Helsinki Committee for Human Rights was the subject of an urgent appeal sent on 18 October 2004 by the then Special Representative for the Secretary General on the situation of human rights defenders. No response has yet been received from the Government.

272. According to information received, on 22 July 2008, at approximately 2 p.m., an unknown man called the Helsinki Committee for Human Rights to tell them "huge amounts of money have been given for the assassination of Mr Branko Todorovic and his family as he has permanently heavily criticized powerful persons from the police and the prosecutor's office." The caller provided details which proved that he had been following Mr Branko Todorovic and his family for the last two months. On 27 July 2008, Mr Branko Todorovic was again threatened.

273. Concern was expressed that the threats made against Mr Branko Todorovic may have been directly related to his legitimate work in the defense of human rights. In light of the events described above concern was expressed for the physical and psychological integrity of Mr Branko Todorovic, as well as that of his family.

### **Response from the Government**

274. In a letter dated 10 October 2008, the Government of Bosnia and Herzegovina responded to the urgent appeal sent on 30 July 2008. The Government reported that the competent law enforcement agencies were requested to investigate the allegations contained in the communication and to inform about their findings. According to information received from the Republika Srpska Ministry of the Interior and the State Investigations and Protection Agency, the events are investigated by the Public Security Center in Bijeljina under supervision of the District Prosecutor's Office. The Government also noted that the police have increased security measures around the home of Mr Branko Todorovic and the premises of the Helsinki Committee in Bijeljina.

### **Letter of allegations**

275. On 27 November 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of allegations concerning **participants of the "Sarajevo Queer Festival"**, a festival of art and culture, organized to promote awareness of the human rights of lesbian, gay, bisexual and transgender (LGBT) persons. According to the information received, permission for the first "Sarajevo Queer Festival" was granted to the organizing NGO called 'Udruzenje Q' for 24-28 September 2008 in Sarajevo. This festival of art and culture included a series of exhibitions, performances, film showings and public discussions to promote the universality of human rights and an end to discrimination based on sexual orientation or gender identity. In the month preceding the festival, several newspapers, including 'SAFF' and 'Dnevni Avaz' used derogatory language in reaction to gay and lesbian people and called for the participants of the festival to be lynched, stoned, doused with petrol or expelled from the country.

276. Death threats were issued on the internet against several individual gay rights activists, including members of the NGO 'Udruzenje Q'; media, venues and organizers received threats on a daily basis, and appeals were made to the public to disrupt the festival. Organization Q's forum at queer.ba website was hacked into twice. Tram stops in Sarajevo were covered with posters quoting the Qur'an and inciting hatred against homosexuals. Participants of the opening ceremony were physically attacked at the end of the first day of the festival. Eight persons were injured, including QSF international guests, several journalists and at least one policeman, when dozens of young people described as 'Wahhabis', 'football fans' and 'skinheads' attacked participants of the festival. Six persons sought medical assistance, but media and eyewitness claim many more attacks went unreported.

277. Although the festival was granted permission to be held until 28 September 2008, as the security situation deteriorated, the organizers decided to close the event to the public. When the death threats continued, they decided to terminate the festival. The decision was based on their assessment of the situation due to the lack of protection by the police. Death threats against the organizers continue.

278. Grave concern was expressed that the hate campaigns in the lead up to the event directly contributed to the climate of fear, hatred and intolerance which culminated in

physical attacks and the harassment of the participants. It was recommended that the use of homophobic language by the media must be strongly condemned. Concern was expressed that these activities appeared to constitute a deliberate attempt to prevent participants and defenders from carrying out their peaceful activities in raising awareness of the universality of human rights. Further concerns were expressed by the absence of appropriate policing which contributed to the disruption of the event and failure to provide adequate protection to participants of the festival.

### **Observations**

279. The Special Rapporteur thanks the Government of Bosnia and Herzegovina of the substantive response provided to the urgent appeal of 30 July 2008. The Special Rapporteur appreciates that the events are investigated by the Public Security Center in Bijeljina under supervision of the District Prosecutor's Office, and would welcome further details about the outcome of those investigations. The Special Rapporteur welcomes the decision of the Government also to provide increased security measures around the home of Mr Branko Todorovic and the premises of the Helsinki Committee in Bijeljina.

280. At the same time, the Special Rapporteur regrets that no response had been transmitted yet to the communication of 27 November 2008, regarding participants of the Sarajevo Queer Festival. In this connection, the Special Rapporteur wishes to remind the Government of the provisions of the Declaration on human rights defenders, in particular article 7 which states that "Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocates their acceptance", as well as article 12 paragraphs 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, (...) against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration".

## **Brazil**

### **Letter of allegations**

281. On 10 January 2008 the Special Representative, together with the Special Rapporteur on the question of torture, sent a letter of allegation to the Government concerning the impunity for the alleged crime of torture committed against Mr **Carlos Abel** and documented by the human rights organization **Grupo Tortura Nunca Mais of Rio de Janeiro (GTNM)**. The organization GTNM was created by former political prisoners who were tortured during the military regime and by family members of political activists killed or disappeared during the military regime. During its twenty years of existence, the GTNM has raised awareness and publicly denounced cases of torture perpetrated by State agents.

282. According to the information received; in May 2002, the organization GTNM published on its website the complaint of Carlos Abel, who alleged having been tortured by the federal police in 1996, one year before the entry into force of Law No. 9,455 which introduced the crime of torture in the law. The case was filed without any analysis of the merits, which was justified by the interpretation that the public prosecutor does not have investigative powers and therefore could not investigate the case of Carlos Abel.

283. On 3 August 2005, the organization GTNM was sentenced to a fine of 40,000 reales for defamation for having published on its website the allegations of torture of Carlos Abel, including the names of the supposed perpetrators. The mandate-holders were concerned that the allegations of torture have not been investigated and the alleged perpetrators remain unpunished while a human rights organization had been sentenced for its work against impunity for the crime of torture.

### **Urgent appeal**

284. On 4 February 2008, the Special Representative sent an urgent appeal to the Government concerning Frei **Henri Burin des Roziers**, a lawyer from the Pastoral Land Commission of Xinguara, South Pará, an organization which works together with small farmers to access land in the region.

285. According to information received; in October 2007, a witness reported overhearing plans being made to kill Mr de Roziers, who has benefited from the police protection program for Human Rights Defenders of Pará since 2005. According to information provided by Mr de Roziers, one of his personal security guards also received information that three gunmen had been ordered to assassinate Frei Henri. Both witness and informant were thought to have been placed at risk by an absence of confidentiality regarding their identity and the information they provided to police. Mr de Roziers himself was reportedly not informed by the police of the investigations that were taking place until after they had begun and was, therefore, unaware of the risk he faced.

286. Concern was expressed that the threats against Mr de Roziers may be directly related to his work in defense of human rights, particularly land rights in South Pará. Further concern was expressed for the physical and psychological integrity of Mr de Roziers, as well of that of the witness and informant involved in his case.

### **Response from the Government**

287. In a letter dated 3 March 2008, the Government responded to the communication, informing that since February 2005, Frei Henri Burin des Roziers benefits from the police protection program for human rights defenders provided by the Special Secretariat of the Presidency of the Republic on Human Rights. The police protection program in which he is inserted is coordinated by the State of Pará and includes personal security guard 24 hours per day, provided by 8 policemen, 4 undercover and 4 uniformed, all members of the Special Police Group of Pará. Within the national protection program for human rights defenders, such structure of protection is part of a protection measure considered

extreme. The program under which Frei Henri Burin des Roziers is taken upon does not impeach him from continuing his work as human rights defenders, but it may –if the police force detects any risk for him or for his personal guards- limit his access to certain areas. Recently, in the State of Pará, a meeting was held between State and National coordinators of the national program for human rights defenders concerning the case of Frei Henri Burin des Roziers. The objective of the meeting was to discuss how better implement the program. Frei Henri Burin des Roziers participated in the meeting by describing his activities and expressing his demands.

### **Urgent appeal**

288. On 4 February 2008, the Special Representative sent an urgent appeal to the Government concerning Mr **Joao Tancredo**, President of the Instituto dos Defensores dos Direitos Humanos, (Institute of Human Rights Defenders) and ex-president of the Human Rights Commission of the Brazilian Bar Association.

289. According to information received; on 19 January 2008, Joao Tancredo was returning from a meeting with residents of the favela of Furquim Mendes in Vigario Geral, Rio de Janeiro, when his car was shot at four times by two unidentified men in helmets on a motorcycle. Joao Tancredo had just attended a meeting with residents of the favela, where he was listening to testimonies about killings allegedly carried out by a state policeman known as the ‘Predator’.

290. Joao Tancredo had reportedly received threats in the past; and so his car was armoured to protect his safety. Joao Tancredo was reportedly removed from his position as President of the Human Right Commission of the Brazilian Bar Association, due to his outspoken criticism of a police operation where 22 people were killed in the Alemao Complex in June 2007. Concern was expressed that the attempted killing of Mr Joao Tancredo may be directly related to his work in defense of human rights, particularly his criticism of alleged human rights violations perpetrated by members of the police forces. In light of this incident, grave concern was expressed for Mr Tancredo’s physical and psychological integrity.

### **Urgent appeal**

291. On 7 March 2008, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal to the Government concerning Ms **Maria de Lourdes Didier Leite**, a human rights defender in the State of Pernambuco.

292. According to information received, Ms Didier Leite had been the subject of harassment due to her public criticism of the police investigation of her brother’s killing. José Arnaldo Didier Leite, a farmer, assassinated on August 15th, 2003, allegedly at the hands of members of the police force and the city administration. Since that time, Ms Didier Leite had reportedly faced death threats as a result of her denunciation of

inefficiency and delays in the investigation. Reports indicated that she had also been warned that a member of the Military Police, identified in the information received, would make an attempt on her life if he lost his job as a consequence of investigations regarding José Arnaldo Didier's killing.

293. Concern was expressed that the intimidation and threats made against Ms Didier Leite may be directly related to her activities in defence of human rights, particularly her peaceful exercise of the right to freedom of expression. In view of the threats made against Ms Didier Leite, serious concern was also expressed for her physical and psychological integrity.

### **Letter of allegations**

294. On 27 March 2008, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation to the Government concerning over **900 women**, who are affiliated to the movement **Vía Campesina** (International Peasant Movement). Vía Campesina seeks to promote agrarian reform and land-workers' rights.

295. According to information received, on 4 March 2008, the aforementioned group of over 900 women staged a reportedly peaceful occupation of the Fazenda Tarumá in the district of Rosario do Sul, situated approximately 400km from Porto Alegre. It was claimed by the protestors that the land in question, covering 2,100 hectares, was illegally acquired by the transnational company Stora Enso, and those staging the occupation demanded its restitution under the agrarian reform process.

296. Reports indicated that, on 4 March 2008, the Military Police harassed and intimidated the women and that excessive and violent use of police force was exercised by the officers. These incidents are said to have resulted in 15 women sustaining injuries and one miscarrying as a result of alleged police actions. Water, food and medication are said to be in short supply in the area occupied by the women. It had been alleged that the efforts of the legal team defending the women and access on the part of the media have been impeded. A representative of the presidential Special Secretary for Human Rights had also reportedly been refused access to the area.

297. Concern was expressed that the harassment of the aforementioned women and the alleged use of violence against them may be directly related to their work in defense of human rights, particularly their activities to promote the rights of peasants and land-workers.

### **Letter of allegations**

298. On 3 April 2008, the Special Representative, together with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living sent a letter of allegation to the Government concerning the reported attack against the human rights defender Mr **Welinton da Silva**, member of the Movimento Sem Terra (MST)

(Movement of Landless Peasants) which forms part of the Vía Campesina network currently supporting the rights of the communities being affected by the construction of a dam in Estreito, Maranhão. The hydroelectric project requires the flooding of 400 square kilometres, affecting the lands and homes of 21,000 people, including the African-Brazilian communities of Bico do Papagayo.

299. According to the information received, on 11 March 2008, at 11.30 pm, Mr da Silva was attacked while participating in an on-site demonstration in a quarry in Estreito, Maranhão, to protest against the building of a dam. He was sleeping in the camp of Movimento dos Antingidos por Barragens [MAB] (Movement of Dam-affected People), in the workers' area of the quarry, when he was shot in the leg by an individual who reportedly fired gunshots from a passing car. Mr da Silva was taken to the Municipal Hospital in Estreito where he received treatment for his injuries. The demonstration at the quarry formed part of protests to mark the International Day of Action against Dams and for Rivers, Water and Life, on 14 March. Participants were calling for further studies to be undertaken to investigate the impact the project is to have on the River Tocantins, as well as for compensation to be given to the communities that are to be displaced as a result of the construction of the dam.

300. It is feared that Mr da Silva was targeted as a result of his human rights activities, in particular his work to defend the land rights of communities in Brazil. The mandate-holders expressed their concern about the physical and psychological integrity of Mr da Silva and other members of the MST.

301. Attacks against defenders working on the protection of the environment and land rights in several reports form part of a trend which had been detected by the then Special Representative on human rights defenders, both in her report on the visit to Brazil (A/HRC/4/37/Add.2) and in some of her thematic reports. "According to the statistics of communications sent by the Special Representative, the second most vulnerable group when it comes to the danger of being killed because of their activities in the defence of human rights, are defenders working on land rights and natural resources." (A/HRC/4/37, para. 45). In this context, the mandate-holders underlined the recommendations of the Special Representative contained in her report on the visit to Brazil, in particular paragraph 102, which states that "the State must play a more proactive role in mediation of social conflict and in giving legitimacy to interventions by human rights defenders to promote and protect economic, social and cultural rights. In particular defenders must not be left isolated in their struggle for or support of social justice against powerful or influential social entities and economic interests [...]".

### **Response from the Government**

302. On 10 October 2008, the Brazilian Government responded to the communication sent by the Special Rapporteurs. In its response, the Government confirmed the accuracy of the facts described in the allegation letter. On 11 March 2008 at 11.30pm, Mr. Silva was shot in the leg when he participated in the occupation of the Hydroelectric Plant of Estreito by MAB and Via Campesina militants. He was subsequently taken to the



Municipal Hospital of Estreito and was subject to a surgical procedure to remove the projectile.

303. The Government also informed that the Police Department of Estreito (State of Maranhão) opened an investigation on the case (n. 18/2008), under article 15 of Law 10826/263 and article 129 of the Penal Code. Mr. Luis Carlos Pereira Lima was arrested and indicted. The victim did not resort to the National Program of Protection of Human Rights Defenders.

304. The Government further provided information on the measures taken by the Government to implement the recommendations of the then Special Representative of the Secretary-General on human rights defenders in her country report on Brazil. In response to the recommendation contained in para. 101, the Government noted the creation of a Special Commission aimed at investigating attempts to criminalize social movements, proposing solutions that guarantee respects for civil rights and public liberties around the country. The Commission is already functioning and will shortly present a report on its work.

305. In what concerns the strengthening and expansion of the National Program of Protection of Human Rights Defenders, the Government, through its Special Secretariat for Human Rights, has been trying to institutionalize an Inter-Ministerial Commission to discuss, analyze and prevent the causes that lead to violations and threats to human rights defenders. This action is consistent with the recommendations contained in paras. 102 and 103 of the then Special Representative's report. The Government further underlined the creation of the National Program of Protection of Human Rights Defenders and the extension of the Program through partnerships with local administrations and civil society.

306. The Coordination of the National Program of Protection of Human Rights Defenders has been defending the adoption of a law establishing rules for the protection of Human Rights Defenders. The adoption of such a law would give more legal certainty to actions protecting human rights defenders and ensure adequate budgetary support and institutional commitment of state institutions such as the police forces. This proposal would meet the then Special Representative's recommendation contained in para. 108 of her report. A national mapping exercise of the situation of human rights defenders has also been planned by the Coordination of the Program. A number of actions to foster consultation with civil society around the country are also being developed. These actions are in line with the recommendations contained in paras. 104 and 107 of the then Special Representative's report.

307. In what concerns the then Special Representative's recommendation in para. 105 of her Report, the Government informed of a partnership established between the Special Secretariat of Human Rights and the Ministry of Justice for human rights training of members of the police forces, particularly at the National Force of Public Security. Finally, regarding the Special Representative's recommendation in para. 106 of her report, the Government noted that since 2001 a National Ombudsman for Human Rights

exists to respond to criticisms, allegations of violations, complaints and recommendations from the public. This is a fast and direct mechanism to identify how human rights are being threatened, violated or being neglected and the adequate means to protect them. The Government also noted the Program for Institutional Support to Police Ombudspersons, financed with European Union support, to improve external control mechanisms to check police violence.

308. The Government concluded by stating its commitment to implement the recommendations of the then Special Representative of the Secretary-General on human rights defenders.

### **Letter of allegations**

309. On 30 April 2008, the Special Representative sent a letter of allegation to the Government concerning the alleged killing of Mr **Eli Dallemole**, a member of the Movimento Sem Terra (MST) (Movement of Landless Peasants) active in the settlement Terra Libre, in the farm Compramil of the municipality Ortigueira in the state of Paraná.

310. According to the information received, on the night of 30 March 2008, two men with their heads covered entered the house of Mr Dallemole and shot him dead in front of his wife and his three sons. It was reported that five persons had been detained in connection with the murder of Mr Dallemole.

311. It was reported that on 8 March 2008, some 15 armed men evicted 35 families who were living in the settlement of Terra Libre. It is reported that the armed men beat women, men and children and burned their belongings. The families evicted had to seek shelter in the neighboring settlements. It is indicated that some of these armed men have remained in the Terra Libre settlement and might be involved in the killing of Mr Dallemole.

312. After the attack on 8 March, seven of the armed men were detained. However, threats against the families and Mr Dallemole had increased and had been previously reported to the police and the Secretary on Human Rights under the Brazilian Presidency. In fact, Mr Dallemole had been receiving death threats for more than two years, which were supposedly linked to his activities to dismantle armed groups in the State. Threats allegedly intensified in February and March 2008 but, despite them being reported to the public prosecutor, no investigations nor protection measures for his family followed.

313. The Special Representative was concerned that the killing of Mr Dallemole might be linked to his activities as a human rights defender, in particular on the defense of land rights. She expressed her concern about the security of the family of Mr Dallemole and the other members of the MST and reiterated her concern that attacks against defenders working on the protection of the environment and land rights form part of a trend which has been detected both in her report on the visit to Brazil (A/HRC/4/37/Add.2) and in some of her thematic reports. "According to the statistics of communications sent by the Special Representative, the second most vulnerable group when it comes to the danger of

being killed because of their activities in defence of human rights, are defenders working on land rights and natural resources." (A/HRC/4/37, para. 45) and again referred to para. 102 of said report.

### **Letter of allegation**

314. On 29 May 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning the shooting attack against Mr **Edson Ferraz**, aged 25, journalist of the TV Diário, affiliated to the Rede Globo network.

315. According to the information received, at around 10 p.m. of 15 May 2008, Mr Ferraz was driving home in Mogi das Cruzes, a suburb of São Paulo, in a car with TV Diário's logo, when two masked men in a black car blocked his way and the driver opened fire twice without hitting Mr Ferraz. They did not try to rob the journalist, who had received an anonymous call on his mobile the previous day advising him to "take care." Mr Ferraz reported the attack to his TV station and the local military police. He left the town the next day with his family. It is reported that the car used in the attack was found on the outskirts of Mogi das Cruzes on 17 May.

316. Mr Ferraz had been working and reporting on cases involving police corruption. It is feared that the shooting attack against Mr Ferraz was a form of reprisal for his activities as an investigative journalist in defense of transparency and a threat to dissuade him from continuing this work.

317. The risks faced by journalists reporting on human rights, in particular those investigating corruption cases, were among the concerns raised in the report of the then Special Representative of the Secretary-General on the situation of human rights defenders on her visit to the country (A/HRC/4/37/Add.2, para. 31). The killing of Mr Luiz Carlos Barbon Filho occurred on 5 May 2007 in the State of São Paulo dramatically confirmed these concerns. The case was brought to the attention of the Government in an allegations letter of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression dated 23 May 2007 to which the Government has not replied (A/HRC/7/11/Add.1, para. 55). In this context, the mandate-holders were particularly concerned for the physical and psychological integrity of Mr Ferraz.

### **Urgent appeal**

318. On 31 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government concerning Mr **Roberto de Oliveira Monte**, founder of the National Movement for Human Rights, former General Coordinator of the State Program for Education in Human Rights, long-term employee of the Commission of Pontifical Justice and Peace in the arch-diocese of Natal, and member of the National Committee of Human Rights, the Centre of Human Rights and Popular Memory, and the State Council of

Human Rights. He was also central to the creation of DHNet, a website which provides information on the issue of human rights.

319. According to information received, in late October 2005, an accusation was made to the Military Court by the Military Public Prosecutor against Mr Roberto de Oliveira Monte. The accusation came after Mr Roberto de Oliveira Monte gave a lecture entitled “Human Rights – Thing of the Police” at an event organized by the Association of Soldiers of the Brazilian Army. In his lecture Mr Roberto de Oliveira Monte promoted respect for the rule of law within the armed forces, defended the creation of human rights commissions for the armed forces, and objected to the ban on unionization for soldiers. He also raised registered cases of internal human rights abuses in the army whereby members of the military were allegedly deprived of sleep, forced to drink chicken’s blood, and made remain on their knees in ant colonies.

320. On 24 January 2008, the Military Public Prosecutor, who had objected to what he considered inappropriate comparisons between current and former army officials by Mr Roberto de Oliveira in the lecture, filed a complaint against Mr Roberto de Oliveira Monte for incitement to disobedience and offense to the Armed Forces under Articles 155 and 219 of the Military Penal Code. These charges carry possible prison sentences of four years and one year respectively. On 23 July 2008, Mr Roberto de Oliveira Monte was scheduled for interrogation at the Special Council of the Army’s Court. This interrogation did not take place, reportedly because there were not enough colonels available to represent the Council. No new date for the interrogation was given when the cancellation was made.

321. Mr Roberto de Monte Oliveira was the only civilian out of a total of 14 defendants in the process Number 20/08-0, in the 7th Division of the Military Court, established in relation with the declarations realized during the Congress of Military Law. In addition to Mr Roberto de Monte Oliveira, the colonel of the Military Police of Alagoas Joilson Gouveia was charged as well as the Army Sergeants Anderson Rogério dos Santos, Lindomar de Oliveira, Dalton Simão, Sílvio Pekanoski, Francisco Ribeiro, Francisco Lima, Antônio Lima, Lasser Saleh, Alberto dos Santos, Francisco Bezerra, Marcos França and Edvaldo da Silva.

322. Concern was expressed that the charges brought against Mr Roberto de Oliveira Monte may have been related to his legitimate activities in the defense of human rights, in particular his activities to promote human rights within the armed forces.

### **Urgent appeal**

323. On 13 August 2008, the Special Rapporteur sent an urgent appeal to the Government regarding Mr **Marcelo Freixo**, President of the Parliamentary Inquiry Commission (Comissão Parlamentar de Inquérito, CPI). The CPI was formed to investigate organized crime among militias in the state of Rio de Janeiro. On 10 June 2008, the CPI was approved unanimously by the Legislative Assembly of Rio de Janeiro.

The problem of organized crime among militias in Rio de Janeiro has reportedly increased since 2006.

324. Mr Marcelo Freixo was the subject of a letter of allegation sent to the Government by the then Special Representative of the Secretary General on the situation of human rights defenders on 13 September 2004. No response has yet been received.

325. According to information received, on 21 July 2008, as a result of investigations undertaken by the CPI, the supposed leader and five other members of a militia group known as the League of Justice (Liga da Justiça) were imprisoned. Since then, the threat to the life of Mr Marcelo Freixo, who had already received death threats because of his work, has considerably increased. Mr Marcelo Freixo varies his route to work each day, is always accompanied by three policemen, and has a police car parked outside his home at all times. However, he believes that these measures are insufficient to guarantee protection for him and his family following the imprisonment of the militia men, and that his life and the lives of his family members are now at greater risk.

326. While welcoming the existent protective measures, concern was expressed that the lives of Mr Marcelo Freixo and his family are under greater threat because of his legitimate work in the investigation of human rights violations committed by members of militia groups in the state of Rio de Janeiro. Further concern was expressed for the physical and psychological integrity of Mr Marcelo Freixo and his family.

### **Letter of allegations**

327. On 29 August 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on extrajudicial, summary or arbitrary executions sent a letter of allegations to the Government concerning the criminalization of the **Movimento dos Trabalhadores Rurais Sem Terra** (MST – Landless Workers Social Movement), a non-governmental organization dedicated to the defense of land rights for peasant workers in Brazil, as well as concerning the killing of another MST leader, **Eli Dallemole**. Mandate holders have sent nine communications to the Government regarding members of the MST since 2005. The response from the Government on 9 January 2007 regarding a communication sent on 11 October 2006 was welcomed, but concern was expressed that no other responses were received, especially given that five of the nine communications sent were in relation to killings of MST members in the last two years.

328. According to information received, on 25 June 2007, the Superior Council of the Public Prosecutor's Office of the State Rio Grande do Sul opened administrative procedures into the activities of the MST. On 3 December 2007, the Superior Council of the Public Prosecutor's Office unanimously approved a report which expressed the intention to dissolve the MST and to declare it illegal; to suspend marches and other mass demonstrations of the MST; to investigate organized crime, as well as the use of public funds and official aid in criminal and administrative spheres, among MST leaders and

members; to work towards the closure of MST settlements near Coqueiros Farm and settlements being used as bases to invade private properties; to conduct electoral investigations in areas of MST settlements and cancel electoral cards in cases of any irregularity being observed.

329. A complaint was also filed against MST leaders of settlements near Coqueiros Farm in the municipality of Coqueiros do Sul by the Federal General Attorney's Office. The complaint was based on the arguments of a landowner in Coqueiros do Sul regarding the Homeland Security Law. It accused the MST of wanting to change the Rule of Law and undo public order, and of having ties with guerrilla groups such as the Fuerzas Armadas Revolucionarias de Colombia (FARC). However, in 2007, a Federal Police investigation found that there were no ties between the MST and FARC or any other guerrilla groups. Moreover the Homeland Security Law was passed during the military dictatorship in Brazil, met subsequent amendments and criminalizes prodemocracy behavior such as forming anti-dictatorship associations and advertising change of the existing political order.

330. This year, hundreds of people have been ill-treated in police searches and forcefully evicted from MST settlements. The most recent eviction took place on 29 July 2008 when 43 families were relocated to a potentially dangerous area.

331. The legal actions against the MST continued to be paralleled by killings of MST leaders perpetrated by gunmen suspected to be linked to associations of landowners. On 30 March 2008, around 7.30 p.m., masked men entered the home of Eli Dallemole, a leader of the MST in Paraná, at the Assentamento Libertaçao Camponesa) in Ortigueira in Paraná State, and killed him in front of his wife and children. This murder was preceded by repeated threats during the last two years and a previous assassination attempt. A man known as "Zezinho", the leader of an armed group financed by landowners, was arrested on suspicion of being one of the gunmen.

332. On 21 October 2007, an armed militia had killed another MST leader, Valmir Mota de Oliveira, in Santa Tereza do Oeste, Paraná State (see our communication to your Government of 26 October 2007 which regrettably remains without a reply as of today).

333. Concern was expressed that the legal action taken against the MST may have been related to its activities in the defense of the rights of the landless rural workers. Concern was also expressed that such legal action against MST increases the vulnerability of its leaders and members to armed violence, including assassinations by hired gunmen.

### **Urgent appeal**

334. On 24 September 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal regarding an attack on the home of Mr. **Joinville Frota** and harassment against the Transport Workers' Union in the state of Amapá (TWU -

Sindicato dos Condutores de Veículos e Trabalhadores em Empresas Transportes Rodoviários de Passageiros do Amapá). Mr. Joinville Frota is president of the TWU.

335. According to the information received, in 2003, the headquarters of the TWU were ransacked. In 2004, the wife of Mr. Joinville Frota, a director of the TWU, was threatened at gunpoint. In April 2008, there was an arson attack against the TWU headquarters. In May 2008, Mr. Joinville Frota received death threats when leading a strike against a bus company.

336. More recently, on 23 August 2008, at approximately 2.45 a.m., a petrol bomb was thrown at Mr. Joinville Frota's wooden house. The attack took place in the midst of an ongoing dispute between the TWU and two local bus companies over payment and health benefits. Although the fire was put out, Mr. Joinville Frota and his family have gone into hiding out of fear for their safety.

337. Following a complaint from Mr. Joinville Frota, two judges from the Tribunal Regional Eleitoral (Regional Electoral Tribunal) went to the house and requested a forensic examination by federal police. However, no arrests have been made in relation to this case or in the case of any of the other human rights violations hereby mentioned. Despite Mr. Joinville's requests, he has not been granted protection by federal police.

338. Concern was expressed that the attack on the home of Mr. Joinville Frota and the various human rights violations against members of the TWU since 2003 may be related to the activities of the TWU in the defense of the rights of transport workers in Amapá. Further concern was expressed for the physical and psychological integrity of Mr. Joinville Frota, as well as that of his family and of other members of the TWU.

### **Observations**

339. The Special Rapporteur thanks the Government for its responses, but regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications of 12 January 2007, 22 January 2007, 2 July 2007, 19 July 2007, 26 October 2007, 31 October 2007, 10 January 2008, 4 February 2008, 7 March 2008, 27 March 2008, 29 May 2008, 31 July 2008, 13 August 2008, 29 August 2008 and 24 September 2008. She considers response to her communications an important part of the cooperation of Governments with her mandate. She urges the Government to respond to the concerns raised by her, and provide detailed information regarding investigations undertaken as well as protective measures taken.

340. The Special Rapporteur reiterates the serious concerns expressed earlier at attacks against the life and personal integrity of Brazilian human rights defenders, and she is particularly concerned of the continuing violations committed against human rights defenders working to promote the rights related to land ownership and the rights of indigenous peoples, and labour rights.

341. The Special Rapporteur welcomes the commitment of the Government to implement the recommendations of the then Special Representative on the situation of

human rights defenders laid down in her country report following her visit to Brazil from 5 to 21 December 2005 (A/HRC/4/37/Add.2). The Special Rapporteur further welcomes the holding of the 3<sup>rd</sup> National Seminar on the National Programme of Protection of Human Rights Defenders in November 2008 in Recife, as well as the publication of the handbook of procedures of the Human Rights Defenders Programme. She urges the Government to continue its efforts to ensure the protection of human rights defenders through programmes and legislation, but most importantly through effective implementation.

## **Bulgaria**

### **Urgent appeal**

342. On 27 June 2008, the Special Rapporteur sent an urgent appeal concerning the **Gay Pride Parade** organized by the Bulgarian Gay Organization “Gemini” and scheduled to take place in Sofia on 28 June 2008. According to information received, reports indicated that several websites have published content which incite hostility and violence towards participants in the Gay Pride march. The website of the Ataka political party has called for an ‘intervention’ by all those opposed to the march and has associated the Parade with paedophilia. Furthermore, on 19 June the Bulgarian National Union (BNU) released a message on its official website reportedly entitled “BNU against homosexuality and paedophilia” (<http://bg.bgns.net/Aktualno/Anti-gei-kampaniya.html>) announcing a campaign called ‘Don’t be tolerant, be normal – A week of intolerance against homosexuality and paedophilia’ from 22 June onwards. In the course of the week, the BNU is reportedly organizing round tables advocating the restriction of public displays of homosexuality and reportedly calling for direct opposition to the march of 28 June.

343. Deep concern was expressed that these statements may lead to threats, intimidation and violence towards participants in the Gay Pride March in Sofia, who are exercising their legitimate and peaceful right to freedom of expression and freedom of assembly. In this context, I also express my serious concern for the physical and psychological integrity of the participants in the aforementioned march and for speech which may incite hatred.

### **Observations**

344. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to the communication of 27 July 2008. She considers response to her communications as an important part of the cooperation of Governments with her mandate, and urges the Government to respond to the concerns raised by her.

## **Burundi**



## **Lettre d'allégations**

345. Le 4 décembre 2008, la Rapporteuse spéciale, conjointement avec l'Expert indépendant sur la situation des droits de l'homme au Burundi, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur le droit de toute personne de jouir du meilleur état de santé physique et mentale susceptible d'être atteint, a envoyé une lettre d'allégations sur le cas suivant.

346. L'Assemblée Nationale du Burundi aurait adopté le 22 novembre 2008 le projet de Code pénal révisé. Ce projet prévoit dans une nouvelle disposition la criminalisation de l'homosexualité et condamne ainsi tout acte sexuel entre des personnes du même sexe consentantes jusqu'à une peine de 2 ans d'emprisonnement.

347. Ce projet de Code stipule que « *Quiconque a des relations sexuelles avec une personne du même sexe est puni d'une servitude pénale de trois mois à deux ans et d'une amende de cinquante mille francs à cent milles francs ou d'une de ces peines seulement* ».

348. Ce projet de loi devrait être présenté devant le Sénat cette semaine et ensuite être promulgué par le Président.

349. Le Burundi est partie au Pacte international sur les droits civils et politiques qui protège la liberté d'expression (art. 19), la liberté de conscience (art. 18), le droit de réunion pacifique (art. 21) et le droit de s'associer librement avec d'autres (art. 22); au Pacte international relatif aux droits économiques, sociaux et culturels ainsi que la Convention sur l'élimination de toutes formes de discrimination à l'égard des femmes et la Convention relative aux droits de l'enfant. Le Burundi a aussi ratifié la Charte Africaine sur les droits de l'homme et des peuples, qui garantit le droit à la santé (art.16) ainsi que le droit à l'égalité et à la non-discrimination (art.2).

350. Le Comité de droits de l'homme des Nations Unies s'est prononcé sur le sujet de l'homosexualité à plusieurs reprises et a conclu que la criminalisation de l'acte sexuel entre des personnes consentantes de même sexe constitue une violation du droit à la vie privée et au droit à l'égalité devant la loi. Le même Comité a aussi déclaré qu'une telle criminalisation est également contraire aux articles 17(1) et 26 du Pacte international sur les droits civils et politiques (*Toonen contre Australie*, mars 2004), ainsi qu'aux obligations fondamentales d'égalité et de non-discrimination énumérées dans la Charte Africaine des droits de l'homme et des peuples. Les conventions citées ci-dessus font partie intégrante de la Constitution du Burundi en conformité avec son article 19.

351. Ce même Comité a affirmé cette position à plusieurs reprises, soit en demandant aux Etats de retirer les lois criminalisant l'homosexualité, soit en leur demandant de les mettre en conformité avec le Pacte. Le Comité considère également que ces lois vont à l'encontre du droit relatif à la vie privée, qu'il soit applicable ou non et « vont à

l'encontre de la mise en œuvre des programmes éducatifs concernant la prévention du SIDA » en poussant les groupes déjà marginalisés vers la clandestinité.

352. Cette position a également été adoptée par la Cour Européenne des droits de l'homme (*Dudgeon vs United Kingdom, Norris v Ireland; Modinos v Cyprus*) et la Cour Constitutionnelle de l'Afrique du Sud (*National Coalition for Gay and Lesbian Equality and another v Minister of Justice and others*).

353. La criminalisation de l'homosexualité aurait par ailleurs un effet préjudiciable sur les efforts du Burundi dans sa lutte contre le SIDA. Les politiques de la santé publique concernant l'épidémie du VIH/SIDA démontrent clairement que la décriminalisation de l'homosexualité combinée avec des efforts visant à lutter contre la discrimination des homosexuels, lesbiennes, bisexuels et transsexuels, représentent une mesure substantielle pour restreindre la propagation du virus. De plus, si le projet de code en question entre en vigueur, celui-ci aurait pour effet d'entraver l'accès à information, aux soins et aux traitements des personnes homosexuelles, atteintes de VIH/SIDA au Burundi, et par conséquent pourrait compromettre la réponse nationale dans la lutte contre le VIH/SIDA.

354. Ce projet de loi aurait enfin un effet néfaste sur la situation des défenseurs des droits de l'homme qui œuvrent pour la promotion et la protection des droits des homosexuels, bisexuels et transsexuels. En effet, cette loi mettrait ces défenseurs dans une situation de vulnérabilité accrue car ils seraient potentiellement la cible d'attaques et d'actes d'intimidation de la part des autorités et de la population.

355. Ainsi, le projet de loi criminalisant l'homosexualité n'est pas conforme au droit international des droits de l'homme et aux obligations légales internationales du Burundi et il est demandé que les préoccupations exprimées dans la présente lettre soient portées à la connaissance du Sénat lors du prochain examen du projet de loi.

356. Il est enfin noté que lors de l'examen périodique universel du Burundi en date du 2 décembre 2008, le Gouvernement du Burundi a été interpellé sur cette question de la criminalisation de l'homosexualité et qu'il a demandé à disposer de plus de temps pour y répondre convenablement.

### **Observations**

357. La Rapporteuse spéciale regrette, au moment de la finalisation du présent rapport, l'absence de réponse aux communications en date du 4 juin 2004, 7 septembre 2005, 7 mars 2006 et 4 décembre 2008 et exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celle-ci.

## **Cambodia**

### **Letter of allegations**

358. On 21 July 2008, the Special Rapporteur, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a

letter of allegations on the killing of Mr **Khim Sambor**, a veteran reporter with Moneaksekar Khmer a Khmer-language daily newspaper affiliated to the Sam Rainsy Party, and also the killing of his son Mr Khat Sarinpheata. According to information received:

359. On 11 July 2008, shortly after 6.30 p.m., Mr Khim Sambor left Phnom Penh's Olympic Stadium on a motorcycle driven by his son Mr Khat Sarinpheata. The two men were reportedly followed by two unknown individuals, who were also travelling by motorcycle. One of the assailants fired a number of shots killing Mr Khim Sambor. His son was also hit and died later in hospital.

360. According to reports, prior to the attack, Mr Khim Sambor had written numerous articles critical of the ruling Cambodian People's Party, as well as articles concerning cases of corruption allegedly implicating leading Government officials.

361. In 2003, Moneaksekar Khmer, was closed down by the authorities for one month for publishing articles critical of the Government, and in 2006 the newspaper was fined \$4,500 for reportedly linking a Government minister to corruption. Furthermore, in June 2008, Mr Dam Sith, Editor of the aforementioned newspaper, was detained for a week and charged in relation to the reporting of a controversial speech by Sam Rainsy and the subsequent legal action that was brought against him by a Government Minister.

362. Concern was expressed that the aforementioned events may represent a direct attempt to stifle independent reporting in Cambodia, particularly in the run up to the country's National Assembly elections scheduled to take place on 27 July 2008, thus impacting on freedom of expression in the country.

### **Observations**

363. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications of 2004 (1), 2005 (2), 2006 (6), 12 March 2007, 7 May 2007, 19 July 2007, 31 July 2007, 2 August 2007 and 21 July 2008. She considers response to her communications an important part of the cooperation of Governments with her mandate. She urges the Government to respond to the concerns raised by her, and provide detailed information regarding investigations undertaken and subsequent prosecutions.

## **Cameroon**

### **Appel urgent**

364. Le 28 avril 2008, l'ancienne Représentante spéciale, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé un appel urgent concernant la situation de M. **Abdoulaye Math**, président du Mouvement pour la Défense des Droits de l'Homme et des Libertés (MDDHL) et chef de file de

l'Observatoire régional des droits de l'Homme du Grand nord. Selon les informations reçues :

365. Dans l'après-midi du 28 mars 2008, M. Koué Kaokamla, Procureur de la République auprès des Tribunaux de première et grande instance de Maroua, aurait appelé M. Abdoulaye Math et aurait déclaré : "je suis au courant de ce qui s'est passé. Toi et moi jusqu'à la mort, tu es mon ennemi juré !", sans préciser ce qu'il reprochait exactement à M. Math.

366. Le 29 mars 2008, M. Abdoulaye Math aurait dénoncé ces agissements dans une lettre adressée au Procureur de la République. Il aurait également saisi le Président de la Cour d'appel de Maroua, qui se serait engagé à intervenir auprès du Procureur de la République afin d'éclaircir la situation.

367. Le 3 avril 2008, M. Math se serait vu refuser l'accès à la prison de Maroua alors qu'il devait rencontrer des clients pour lesquels il avait été commis d'office par la Cour d'appel. Les gardiens de la prison auraient justifié ce refus sur la base d'une lettre du Procureur de la République auprès des Tribunaux de première et grande instance de Maroua qui lui interdirait tout contact avec les détenus.

368. Le 8 avril 2008, M. Math aurait rencontré le Président de la Cour d'appel afin de lui demander de lui permettre de reprendre ses visites dans les prisons. Une réponse du Président serait attendue prochainement.

369. Des craintes sont exprimées quant au fait que les actes d'intimidation contre M. Math et les entraves à son travail soient liés à ses activités non-violentes de défense des droits de l'homme.

### **Appel urgent**

370. Le 14 octobre 2008, la Rapporteuse spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent concernant l'arrestation de M. **Gaston Tagaï**, membre du Mouvement pour la défense des droits de l'homme et des libertés (MDDHL), et responsable d'une antenne que le MDDHL s'apprête à ouvrir à Roua, département du Mayo Tsanaga.

371. Le 4 décembre 2003, le 28 décembre 2005, le 3 mars 2006 et le 24 avril 2008, plusieurs titulaires de mandat ont envoyé des appels urgents au Gouvernement du Cameroun concernant le MDDHL. Le Gouvernement a répondu le 21 novembre 2006. Selon les nouvelles informations reçues :

372. Le 16 septembre 2008, M. Gaston Tagaï aurait été arrêté par le commandant de la brigade de gendarmerie de Roua et aurait été placé en garde de vue. M. Tagaï serait toujours détenu à ce jour bien que, selon la loi camerounaise, la durée maximale pour les gardes à vue soit de 24 heures, renouvelables deux fois sur autorisation du Procureur de

la République. M. Tagaï serait accusé d'avoir frappé son père et d'avoir volé une arme à feu à la brigade de Roua, mais il aurait nié ces accusations.

373. Des craintes sont exprimées quant au fait que l'arrestation de M. Gaston Tagaï soit liée à ses activités non-violentes de défense des droits de l'homme et que cet incident s'inscrive dans une campagne de harcèlement contre les membres du MDDHL.

### **Appel urgent**

374. Le 20 octobre 2008, la Rapporteuse spéciale, conjointement avec la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire et le Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé un appel urgent sur la situation de M. **Ngalle Moussombo**, conseiller municipal à la Mairie de Njombé-Penja et de Maître **Jean René Manfo Songong**, avocat au Barreau du Cameroun et responsable de la cellule juridique de l'organisation non gouvernementale l'Action des Chrétiens pour l'Abolition de la Torture (ACAT) Littoral. Selon les informations reçues :

375. Le 8 octobre 2008, M. Ngalle Moussombo aurait été détenu sans mandat judiciaire, lors de la cérémonie de passation de commandement entre les sous-préfets entrant et sortant de la localité de Penja. Postérieurement il aurait été transféré dans les locaux du groupement de gendarmerie de Nkongsamba. M. Ngalle Moussombo n'aurait pas eu accès à son avocat, Me Jean René Manfo Songong. Il n'aurait pas non plus eu la possibilité qu'un juge se prononce sur la légalité de sa détention. D'après les informations reçues, le Commandant de police M. Amougou aurait reçu l'ordre d'arrêter Me Manfo Songong du fait de son opposition à l'arrestation arbitraire de son client.

376. En outre, Me Jean René Manfo Songong ferait l'objet de menaces téléphoniques anonymes en relation avec sa participation en tant que conseiller juridique dans les procès de Paul Eric Kingue, ancien Maire de Njombé-Penja contre le Ministère Public, concernant les émeutes de fin février 2008. D'après les informations reçues, durant ces émeutes de nombreuses personnes auraient été détenues et accusées sans preuves à l'appui d'incitation à la révolte et vandalisme. Certains responsables politiques souhaitant accéder à certains postes auraient saisi l'occasion pour dénoncer leur supérieur. Ce serait le cas du Maire de la localité de Penja. Depuis son arrestation, les membres du conseil municipal se déchireraient entre collaborateurs et opposants au Maire.

### **Réponse du Gouvernement**

377. Dans une lettre en date du 11 novembre 2008, le Gouvernement du Cameroun a répondu à l'appel urgent du 20 octobre 2008. Le Gouvernement informe que les autorités compétentes ont été saisies et que les conclusions des enquêtes seront transmises au Haut-Commissariat. Le Gouvernement a sollicité un délai supplémentaire de 30 jours pour transmettre ses éléments de réponse.

### **Observations**

378. La Rapporteuse spéciale remercie le Gouvernement de sa réponse mais regrette, au moment de la finalisation du présent rapport, l'absence de réponses aux communications en date du 28 avril et 14 octobre 2008 et exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celles-ci.

### Central African Republic

#### Appel urgent

379. Le 30 mai 2008, la Rapporteuse spéciale a envoyé un appel urgent sur la situation de M. **Erick Kpakpo**, coordinateur intérimaire de l'Organisation pour la compassion et le développement des familles en détresse (OCODEFAD), et de Mme **Bernadette Sayo Nzale**, fondatrice et présidente de l'OCODEFAD et actuelle Ministre du Tourisme depuis fin janvier 2008. L'OCODEFAD, basée à Bangui, regroupe plus de 1 000 adhérents, victimes des graves violations des droits de l'homme et du droit international humanitaire commises à l'occasion des conflits qui se sont succédés entre troupes loyalistes et rebelles depuis 2002. Certaines de ces violations auraient été commises par les troupes de M. Jean-Pierre Bemba Gombo, ancien Vice-président de la République démocratique du Congo, président et commandant en chef du Mouvement de libération du Congo (MLC). En effet, selon la Cour Pénale Internationale, celui-ci « serait pénalement responsable de quatre chefs de crimes de guerre et de deux chefs de crimes contre l'humanité commis sur le territoire de la République centrafricaine pendant la période allant du 25 octobre 2002 au 15 mars 2003... [Sous sa direction], les troupes du MLC auraient en effet mené une attaque systématique ou généralisée contre la population civile et commis des viols, des actes de torture, des atteintes à la dignité de la personne et des pillages, notamment dans la localité dénommée PK 12 et dans les villes de Bossangoa et Mongoumba ». L'OCODEFAD a pour objectifs statutaires d'apporter un soutien économique, social et médical aux victimes de ces violations et de les aider dans la constitution de plaintes auprès de la justice centrafricaine pour faire valoir leur droit à la justice et à réparation.

380. Mme Bernadette Sayo Nzale a fait l'objet de deux appels urgents envoyés par l'ancienne Représentante Spéciale du Secrétaire-Général sur la situation des défenseurs des droits de l'homme les 15 août 2006 et 24 janvier 2007. Ces deux appels restent sans réponse. Selon les nouvelles informations reçues :

381. Dans la nuit du 24 au 25 mai 2008, suite à l'annonce de l'arrestation de M. Jean-Pierre Bemba Gombo sur mandat d'arrêt de la Cour pénale internationale, M. Erick Kpakpo aurait reçu des menaces téléphoniques anonymes, le mettant en garde de cesser de « pousser ce dossier, au risque de [sa] vie ». Mme Bernadette Sayo Nzale aurait également été menacée par le biais de cinq messages anonymes, notamment en les termes suivants : « tu nous a montré que tu es une femme et que tu as pu faire arrêter Jean Pierre Bemba....wait and see », « la prochaine fois si c'est Patassé, on sera face-à-face ».

382. Le 27 mai, deux policiers auraient dû être affectés à la garde de Mme Bernadette Sayo Nzale. Or, ceux-ci ne seraient jamais présentés.

383. De vives craintes sont exprimées quant au fait que les menaces proférées contre M. Erick Kpakpo et Mme Bernadette Sayo Nzale soient liées à leurs activités passées et présentes au sein de l'OCODEFAD, en particulier dans sa lutte contre l'impunité des auteurs des crimes les plus graves perpétrés depuis 2002 sur le territoire centrafricain, notamment M. Jean-Pierre Bemba Gombo en tant que commandant en chef des troupes du MLC.

### **Appel urgent**

384. Le 20 juin 2008, la Rapporteuse spéciale a envoyé un appel urgent sur Me **Nganatouwa Goungaye Wanfiyo**, avocat et président de la Ligue centrafricaine des droits de l'Homme (LCDH). Selon les informations reçues :

385. Le 17 juin 2008, un inconnu aurait abordé Me Goungaye Wanfiyo dans la rue et l'aurait mis en garde que « quelque chose se tramait » contre lui et que s'il ne faisait pas attention, un sort similaire à celui de Me Nicolas Tiangaye, ancien président de la LCDH, et Me Bandassa, lui serait réservé. En l'occurrence, le domicile du premier aurait été attaqué par des hommes armés non-identifiés en janvier 2006 et le second aurait été assassiné le 12 juin 2006. Le premier incident a fait l'objet d'un appel urgent envoyé le 1er février 2006 par le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et l'ancienne Représentante spéciale du Secrétaire-Général concernant la situation des défenseurs des droits de l'homme. A ce jour, aucune réponse n'a été reçue de la part du Gouvernement de votre Excellence au sujet de ce cas.

386. L'inconnu aurait ajouté que suite à une réunion tenue début juin 2008 en présence de membres des forces armées au cours de laquelle il aurait été déclaré que Me Goungaye Wanfiyo « a fait délivrer un mandat d'arrêt contre le Président Bozizé pour faire procéder à son arrestation par la Cour pénale internationale », des participants de cette réunion aurait exhorté les militaires à faire payer Me Goungaye Wanfiyo.

387. Des craintes sont exprimées quant au fait que les menaces dont Me Goungaye Wanfiyo ferait l'objet soient en relation avec ses activités de défense des droits de l'homme au sein de la LCDH ainsi que son action en faveur des victimes auprès de la Cour pénale internationale (CPI). En effet, ces menaces font suite à l'arrestation le 25 mai 2008 de M. Jean-Pierre Bemba Gombo, ancien Vice-président de la République Démocratique du Congo et président du Mouvement pour la libération du Congo, sur mandat d'arrêt de la CPI.

388. Ces craintes s'ajoutent à celles exprimées dans l'appel urgent de la Rapporteuse Spéciale sur la situation des défenseurs des droits de l'homme en date du 30 mai 2008 concernant des menaces similaires proférées contre M. Erick Kpakpo, coordinateur intérimaire de l'Organisation pour la compassion et le développement des familles en détresse (OCODEFAD), et Mme Bernadette Sayo Nzale, fondatrice et présidente de l'OCODEFAD et actuelle Ministre du Tourisme depuis fin janvier 2008, en raison de leurs activités passées et présentes au sein de l'OCODEFAD. L'OCODEFAD est en

particulier engagé dans la lutte contre l'impunité des auteurs des crimes les plus graves perpétrés depuis 2002 sur le territoire centrafricain, notamment M. Jean-Pierre Bemba Gombo en tant que commandant en chef des troupes du MLC. A ce jour, aucune réponse n'a été reçue de la part du Gouvernement de votre Excellence au sujet de ce cas.

### **Observations**

389. La Rapporteuse spéciale regrette, au moment de la finalisation du présent rapport, l'absence de réponses aux communications en date du 1<sup>er</sup> février 2006, 15 août 2006, 24 janvier 2007, 30 mai 2008 et 20 juin 2008 et exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celles-ci.

## **Chad**

### **Lettre d'allégations**

390. Le 21 janvier 2008, l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une lettre d'allégations sur la situation de M. **Deuzoumbe Daniel Passalet**, Président de l'organisation non-gouvernementale tchadienne Droits de l'Homme sans Frontières (DHF). M. Deuzoumbe Daniel Passalet a notamment coordonné la marche des organisations civiles contre la vie chère le 12 décembre 2007. Selon les informations reçues :

391. Le 9 janvier 2008, M. Deuzoumbe Daniel Passalet aurait été convoqué au poste de la police judiciaire de N'Djamena. Il s'y serait rendu le jour même accompagné de ses collaborateurs, notamment la secrétaire générale et le trésorier de DHF. M. Deuzoumbe Daniel Passalet aurait été auditionné en l'absence de son avocat au sujet d'un communiqué de presse publié le 5 janvier par DHF suivi d'une interview sur RFI à propos de M. Mamay Rozy, contrôleur financier au Ministère des Finances, enlevé le 31 décembre 2007. Selon ledit communiqué, de nombreuses sources proches de la famille de M. Rozy indiquaient que son enlèvement serait lié à des affaires de corruption où seraient impliqués certains hommes d'affaires et des personnalités publiques. Il aurait été demandé à M. Deuzoumbe Daniel Passalet de prouver ses allégations alors même qu'il a utilisé le conditionnel dans son communiqué. Des menaces d'emprisonnement auraient alors été proférées à son encontre ainsi que des menaces concernant la suspension des activités de DHF. M. Deuzoumbe Daniel Passalet aurait été maintenu en détention après la convocation.

392. Le 10 janvier 2008, M. Deuzoumbe Daniel Passalet aurait été appelé par le Directeur Général de la police nationale accompagné du Directeur de la police qui lui auraient annoncé qu'il était à présent libre, précisant que son travail devait « s'accommoder avec de telles arrestations » et qu'il ne devait toucher mot de cette présente arrestation.



393. Des craintes sont exprimées quant au fait que la convocation et la détention de M. Deuzoumbe Daniel Passalet ainsi que les intimidations à son égard et contre son organisation aient été liées à ses activités non-violentes de défense des droits de l'homme.

### **Appel urgent**

394. Le 14 février 2008, l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent sur la situation de M. **Dobian Assingar**, président d'honneur de la Ligue tchadienne des droits de l'Homme (LTDH), Mme **Jacqueline Moudeïna**, présidente de l'Association tchadienne pour la promotion et la défense des droits de l'Homme (ATPDH), Mme **Delphine Djiraibe Kenneloum**, vice-présidente de l'ATPDH, M. **Massabalaye Tenebaye**, président de la LTDH, de M. **Jean-Bernard Padaré**, avocat et membre de la LTDH, M. **Clément Abaifouta**, membre de l'Association des victimes de crimes et de la répression politique (AVCRP), M. **Lazare Kaoutar Djelourninga**, vice-président de l'ATPDH, M. **Ismail Hachim Abdallah**, président de la section de Moundou de la LTDH et M. **Lou Hingané Nadji**, membre de la section de Moundou de la LTDH. Des informations ont également été reçues concernant M. **Laldjim Narcisse**, journaliste de l'hebdomadaire Le Temps et correspondant de l'organisation Reporters sans frontières, M. **Michael Didama**, directeur de publication du même journal, M. **Eloi Miandadji**, directeur de publication de l'hebdomadaire Le Moustik, M. **Modilé Belrangar**, journaliste de la station Ngato FM et M. **Frank Nakingar**, maquettiste de l'hebdomadaire Sarh Tribune. Selon les informations reçues :

395. Suite à l'offensive manquée d'une coalition de mouvements rebelles contre la capitale en février 2008, M. Dobian Assingar, Mme Jacqueline Moudeïna, Mme Delphine Djiraibe Kenneloum, M. Massabalaye Tenebaye, M. Jean-Bernard Padaré, M. Clément Abaifouta, M. Lazare Kaoutar Djelourninga, M. Ismail Hachim Abdallah, et M. Lou Hingané Nadji seraient victimes de menaces et intimidations, telles que des tentatives d'arrestation ou des attaques perpétrées par les forces de sécurité. M. Dobian Assingar aurait notamment fait l'objet de deux tentatives d'arrestation et sa maison aurait été intentionnellement détruite par des tirs d'obus de chars des forces loyalistes. Il serait actuellement contraint de se cacher. La maison d'un autre défenseur aurait été également encerclée par des tanks des forces armées tchadiennes. Les renseignements dont dispose la Représentante spéciale indiquent que tous ces défenseurs seraient contraints de vivre cachés dans différentes parties du pays.

396. Il est également rapporté qu'après la fin des combats à N'Djamena, plusieurs journalistes auraient échappé à une arrestation par des hommes en tenue militaire. Le 6 février, deux hommes en uniforme et circulant sur une moto se seraient présentés au domicile de M. Narcisse, exigeant que les enfants présents dans la maison leur indiquent où se trouvait le journaliste. M. Narcisse avait quitté le pays peu après la fin des combats. Dans les jours qui ont suivi, les mêmes personnes se seraient aussi présentées deux fois au domicile de M. Didama ainsi qu'au siège du journal Le Temps. Le 8 février, six

militaires se seraient présentés au domicile d'Eloi Miandadji pour l'arrêter. Selon les renseignements reçues, certains journalistes qui essayaient de fuir vers le Cameroun et le Nigeria auraient fait objet de vexations ou d'agressions de la part de militaires. M. Belrangar auraient été dépouillé de sa carte professionnelle et de son téléphone portable par deux militaires à l'entrée sud de N'Djamena. Au même endroit, des militaires auraient détruit des images prises par M. Nakingar lors de l'entrée des rebelles dans N'Djamena et de l'exode des habitants de la capitale. Plusieurs journalistes auraient quitté le pays lors de la fin des combats à N'Djamena.

397. De vives craintes sont exprimées quant au fait que les menaces à l'encontre des personnes susmentionnées puissent être liées à leurs activités de défense des droits de l'homme. De vives préoccupations sont également exprimées pour leur intégrité physique et psychologique.

### **Appel urgent**

398. Le 29 février 2008, l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé un appel urgent sur la situation M. **Jean-Bernard Padaré**, avocat et membre de la Ligue tchadienne des droits de l'Homme. M. Padaré a fait l'objet d'un appel urgent envoyé par l'ancienne Représentante spéciale et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression le 14 février 2008. Selon les nouvelles informations reçues :

399. Le 14 février 2008, M. Jean-Bernard Padaré aurait déposé plainte pour arrestation illégale et détention arbitraire à la suite de la disparition de MM. Ngarlejy Yorongar et Ibni Oumar Mahamat Salehdes, dirigeants de l'opposition légale tchadienne. Depuis lors, M. Padaré ferait l'objet de menaces quotidiennes. Le 15 février 2008, des individus cagoulés se seraient rendus plusieurs jours de suite à son domicile en vue de l'intimider. M. Padaré aurait été absent de son domicile lors de ces visites et n'aurait pu le regagner depuis lors. Les jours suivants, M. Padaré aurait reçu deux SMS le menaçant en des termes suivants : « Mr ARCHE DE ZOE, malheur à toi si on te retrouve au TCHAD. Sale traître, mercenaire à la solde des FRANCAIS. Tu vas payer de ta vie, sale traître » puis « Mr ARCHE DE ZOE, si tu es un homme, montre-toi de jour ou de nuit dehors et tu verras toi qui aime défendre les Français et les affaires louches. » Ces menaces feraient allusion au rôle de M. Padaré dans le procès de l'organisation non-gouvernementale l'Arche de Zoé qui s'est déroulé du 21 au 26 décembre 2007 à N'Djamena et au cours duquel il assurait, aux côtés d'autres avocats, la défense des six Français accusés.

400. Des craintes sont exprimées que les menaces à l'encontre de M. Padaré soient liées à ses activités non-violentes de protection des droits de l'homme.

### **Appel urgent**

401. Le 5 août 2008, la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme a envoyé un appel urgent sur la situation de M. **Clément Dokhot Abaifouta**, directeur du nouveau bureau de l'Association des victimes de crimes et de la répression politique (AVCRP). Selon les informations reçues,

402. Le 30 juillet 2008, M. Abaifouta a été convoqué par la police judiciaire de N'Djamena pour être entendu à la suite d'une plainte déposée par l'ancien bureau de l'AVCRP. Cette plainte avait abouti à la délivrance par le Ministre de l'Intérieur, d'un ordre de fermeture de l'AVCRP, au motif que l'association n'était pas déclarée. M. Abaifouta a été laissé libre à l'issue de cette audition.

403. Le 31 juillet 2008, M. Abaifouta a été contacté par le directeur de la police judiciaire qui lui a annoncé que son dossier avait été transféré au bureau du Procureur de la République et qu'il devait se rendre au Palais de Justice afin d'être entendu par le parquet. Quinze minutes plus tard, il a de nouveau été contacté par le directeur de la police judiciaire qui l'a convoqué au commissariat central afin d'être entendu. Dans l'après midi, M. Abaifouta s'est rendu à la direction de la police judiciaire en compagnie de son avocat. M. Abaifouta aurait été interpellé, sur ordre du Procureur de la République qui était présent, et placé en garde-à-vue, pour « faux et usage de faux » et « incitation à la haine tribale ». Dans le rapport de police, le commissaire de police chargé de l'enquête aurait conclu à l'existence de « vices de forme car la fermeture [de l'AVCRP] a été ordonnée sans écouter les uns et les autres » et en raison de « la gestion de cette affaire par deux autorités : la police judiciaire et le Ministre de l'Intérieur ».

404. M. Abaifouta aurait été déféré au parquet dans la matinée du 1er août 2008, afin que soit statué son éventuel placement en détention provisoire. La procédure intentée à son encontre a été classé sans suite, et M. Abaifouta a par conséquent été libéré.

405. Des préoccupations sont exprimées quant au fait que l'arrestation de M. Abaifouta soit liée à ses activités non-violentes de promotion et protection des droits de l'homme.

## **Observations**

406. La Rapporteuse spéciale regrette, au moment de la finalisation du présent rapport, l'absence de réponse à ses quatre communications et exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celles-ci.

## **Chile**

### **Llamamiento urgente**

407. El 4 de enero de 2008, la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, el Relator Especial sobre formas contemporáneas de racismo, discriminación racial, xenofobia y formas conexas de intolerancia y el Relator Especial sobre la promoción y protección de los derechos humanos y las libertades fundamentales en la

lucha contra el terrorismo, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. **Patricia Roxana Troncoso Robles** y otros **presos mapuches** que cumplen condenas de prisión en la cárcel de Angol.

408. Según las informaciones recibidas; los Sres. José Huenchunao Mariñan, Héctor Llaitul Carrillanca, Jaime Marileo Saravia, Juan Millalén Milla y Patricia Roxana Troncoso Robles dieron inicio a una huelga de hambre seca el pasado 10 de octubre de 2007. Según las alegaciones, la huelga de hambre tendría como objetivo, entre otros, denunciar la situación de los numerosos dirigentes y activistas mapuches condenados en los últimos años a penas de prisión por actos de protesta asociados a reivindicaciones de derechos indígenas. El 8 de diciembre de 2007, un equipo médico independiente habría emitido un informe sobre el estado de salud de los presos. Este informe habría señalado que los presos se encontraban en un estado de salud crítico, indicando pérdidas de peso de entre 13.4 y 22.6 Kg. El 15 de diciembre de 2007, al cabo de 66 días de huelga, los Sres. José Huenchunao, Jaime Marileo y Juan Millalén habrían abandonado la huelga de hambre, aceptando la mediación del Obispo de Temuco, Mons. Camilo Vial. El Sr. Héctor Llaitul y la Sra. Patricia Troncoso habrían decidido sin embargo continuar con la huelga de hambre. El 30 de diciembre de 2007, el Sr. Héctor Llaitul habría desistido de la huelga de hambre ante la extrema gravedad de su estado de salud.

409. Según las informaciones recibidas, la Sra. Patricia Troncoso continuaría todavía en huelga de hambre. Según la revisión del parte médico independiente llevado a cabo el pasado 30 de diciembre de 2007, la Sra. Troncoso habría perdido más de 23 Kg., presentando un cuadro clínico que indicaría un serio riesgo vital. Según las alegaciones, existe grave riesgo por la vida de la Sra. Patricia Troncoso tras 85 días del inicio de su huelga de hambre, en particular teniendo en cuenta su delicado estado de salud como resultado de las huelgas de hambre emprendidas con anterioridad.

410. Según las informaciones recibidas, la Sra. Patricia Troncoso y el Sr. Jaime Marileo fueron condenados el 21 de agosto de 2004 a penas de 10 años y un día de prisión por el supuesto delito de “incendio terrorista” en relación con el incendio del Fundo Poluco Pidenco, en aplicación de la Ley No. 18.314 (“Ley Antiterrorista”) que determina conductas terroristas y fija su penalidad. Los Sres. Héctor Llaitul y José Huenchunao fueron detenidos el 21 de febrero y el 20 de marzo del 2007 respectivamente, y se encuentran en prisión para cumplir las condenas pronunciadas previamente en su ausencia en relación con los mismos hechos. El Sr. Jaime Marileo y la Sra. Patricia Troncoso participaron en una primera huelga de hambre iniciada junto con otros presos mapuches cumpliendo condenas en virtud de la legislación antiterrorista el 7 de marzo de 2005. Dicha situación fue objeto de la comunicación enviada por el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas el 24 de marzo de 2005 (Ref. UA CHL 2/2005).

411. El Sr. Jaime Marileo y la Sra. Patricia Troncoso participaron asimismo junto con otros presos mapuches en una segunda huelga de hambre iniciada el 13 de marzo de 2006. Dicha situación fue objeto de la comunicación conjunta enviada el 11 de mayo de 2006 por el Relator Especial sobre el derecho a la alimentación, el Relator Especial sobre

formas contemporáneas de racismo, discriminación racial, xenofobia y formas conexas de intolerancia, el Relator Especial sobre independencia de magistrados y abogados, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, el Relator Especial sobre la promoción y protección de los derechos humanos y las libertades fundamentales en la lucha contra el terrorismo y la Representante Especial del Secretario General para los defensores de derechos humanos [Ref.: UA G/SO 214 (42-1) G/SO 214 (107-5) G/SO 214 (3-3-12) G/SO 214 /78-11) CHL 3/2006], a la que respondió por medio de su nota de 26 de mayo de 2006 (s/ref.).

412. Según las informaciones recibidas, el 13 de mayo de 2006, los presos habrían puesto fin a la huelga de hambre a raíz de la mediación del Senador Alejandro Navarro, con el compromiso de promover las reformas legislativas necesarias para atender la situación de los presos mapuches cumpliendo condenas por supuestos delitos de terrorismo. El 15 de mayo de 2006, el Senador Navarro, junto con los Senadores Guido Girardi y Juan Pablo Letelier, habría introducido en el Senado un proyecto de Ley “que permite conceder la libertad condicional a condenados por conductas terroristas y otros delitos, en causas relacionadas con reivindicaciones violentas de derechos consagrados en la Ley No. 19.253” (Boletín 4188 -07), que fue aprobado el 17 de mayo de 2006 por la Comisión de Derechos Humanos del Senado y que desde entonces se encuentra en espera de tramitación parlamentaria. Dicho proyecto de ley, así como los proyectos de ley para la reforma de la Ley Antiterrorista presentados en mayo y julio de 2006 y también pendientes de tramitación parlamentaria (Boletín N° 4199-07 y 4298-07, respectivamente) fueron objeto de la comunicación conjunta enviada por el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y por el Relator Especial sobre la promoción y la protección de los derechos humanos y las libertades fundamentales en la lucha contra el terrorismo el pasado 5 de abril de 2007

### **Respuesta del Gobierno**

413. Mediante carta con fecha del 12 de marzo de 2008, la Misión Permanente de Chile en Ginebra remitió la respuesta gubernamental a la carta más arriba. La carta afirmaba que la Sra. Troncoso había puesto fin a una prolongada huelga de hambre el 26 de enero de 2008. Durante la duración de la huelga, el gobierno dijo haber adoptado las medidas necesarias para su protección y para prevenir eventuales daños irreparables. El término de la huelga se logró tras llegar a un acuerdo en orden a que podría acceder a beneficios intrapenitenciarios, junto a los Sr.es Marileo Saravia y Millalén Milla. El gobierno informó de que el acuerdo ya había comenzado a operar y la Sra. Troncoso había sido trasladada al Centro de Estudios y Trabajo (CET) de Angol el 5 de marzo de 2008.

414. El gobierno quiso destacar la creación de un Comisionado presidencial para asuntos indígenas, a cargo del Sr. Rodrigo Egaña Baraona, para reforzar el trabajo de la Corporación Nacional de Desarrollo Indígena (CONADI).

415. Por último, el gobierno comunicó que el Senado chileno aprobó el proyecto de acuerdo aprobatorio del Convenio N° 169 sobre pueblos indígenas y tribales en países independiente, lo cual permite proceder a la promulgación del Convenio, cumpliéndose así una recurrente recomendación hecha por relatores y mecanismos multilaterales de protección de los derechos humanos de los pueblos indígenas

### **Carta de alegaciones**

416. El 15 de enero de 2008, la Representante Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y el Relator Especial sobre la independencia de magistrados y abogados, envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. **Yénive Cavieres Sepúlveda**, abogada defensora de causas indígenas e integrante de la rama chilena de la Asociación Americana de Juristas, las Dras. **Orielle Nuñez** y **Berna Castro** y **quince mapuches**, de los cuales, tres son menores de edad.

417. Según la información recibida, el día 3 de enero del 2008, la Sra. Yénive Cavieres Sepúlveda asistió a una manifestación pacífica de reclamación de justicia por el asesinato reciente del estudiante mapuche, Matías Catrileo Quezada. Durante la manifestación, los Carabineros habrían detenido a dos manifestantes, las Dras Orielle Nuñez y Berna Castro. Según fuentes, la abogada Yénive Cavieres Sepúlveda habría tratado de interceder defendiendo, ante los Carabineros, el derecho de cualquier ciudadano a manifestarse pacíficamente y a ejercer el derecho a la libertad de expresión.

418. Los Carabineros habrían ejercido una fuerza excesiva y habrían detenido a la abogada Yénive Cavieres, a las Dras Orielle Nuñez y Berna Castro, y a quince mapuches, de los cuales, tres son menores de edad. Los detenidos habrían sido trasladados a la 1ª Comisaría de Santiago, donde habrían permanecido durante seis horas, hasta que fueron liberados. Se alegaba que la detención de estas personas pueda estar relacionada con su trabajo en defensa de los derechos humanos.

### **Carta de alegaciones**

419. El 8 de febrero de 2008, la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con la muerte del Sr. **Matías Catrileo Quezada**, estudiante mapuche de 22 años de edad.

420. Según las informaciones recibidas; el 3 de enero de 2008, a aproximadamente las 6 de la mañana, el Sr. Matías Valentín Catrileo Quezada, murió a consecuencia de un disparo de arma de fuego en la espalda, mientras se encontraba participando en un acto de protesta en una finca privada, en las proximidades de la comunidad mapuche Mariano Lleuful, comuna de Vilcún, IX Región. Según las alegaciones, el Sr. Catrileo se encontraría participando, junto con un grupo de aproximadamente treinta comuneros

mapuches, en un acto de ocupación de la finca Santa Margarita, actualmente en propiedad de un particular, y que la comunidad Mariano Lleiful reclama como parte de sus tierras tradicionales. Dicha ocupación habría generado la intervención de agentes del Grupo de Operaciones Policiales Especiales (GOPE), perteneciente a Carabineros de Chile, reapestados de manera permanente en la finca, quienes habrían comenzado a disparar para dispersar a los ocupantes con sus armas reglamentarias. El Sr. Catrileo habría fallecido supuestamente a consecuencia de uno de dichos disparos.

421. El cuerpo sin vida del Sr. Catrileo habría sido posteriormente trasladado por los manifestantes en una camilla improvisada hasta las cercanías de la Escuela La Roca, a unos cinco kilómetros del lugar de los hechos. Diez horas más tarde, y mediante la mediación del Obispo de la Araucanía, Mon. Sixto Parziner, el cadáver habría sido levantado por personal del Servicio Médico Legal y trasladado a Temuco para la realización de los estudios prescriptivos. El 4 de enero, el Fiscal Militar habría procesado y ordenado la prisión preventiva del supuesto responsable de la muerte del joven, el cabo segundo de Carabineros, Sr. Walter Ramírez Espinoza.

422. Se expresó preocupación por el hecho de que la muerte del Sr. Catrileo pueda ser el resultado de un uso excesivo de la fuerza policial contra manifestantes en reivindicación de derechos indígenas.

### **Respuesta del Gobierno**

423. Mediante carta fechada el 12 de marzo de 2008, el Gobierno respondió a la carta de alegaciones. La carta comunicó que el 3 de enero de 2008, alrededor de las 7h00, Matías Catrileo Quezada, junto a más de una veintena de encapuchados, comenzó a prender fuego a unos 500 fardos emplazados en el fundo Santa Margarita, de propiedad de un agricultor. Instantes después de iniciadas las acciones, que tenían por finalidad reivindicar las demandas de tierras por parte de miembros del pueblo mapuche y con la presencia de funcionarios de Carabineros en el lugar, quienes vigilan constantemente el predio por la existencia de ataques anteriores y en virtud de una orden emanada de la Fiscalía de Temuco, Matías Catrileo recibió un disparo que le causó la muerte. Aproximadamente a las 8h00, a través de un llamado telefónico efectuado a la Tenencia de Carabineros "Vilcún" por personal del Servicio de Salud local, se tomó conocimiento de que, producto del enfrentamiento producido, habría resultado muerto Matías Catrileo Quezada.

424. Se hizo entrega del cuerpo a las 17h30, en presencia del Fiscal Militar de Temuco, quien dispuso el retiro del personal de Carabineros que se encontraba en el lugar, trabajando exclusivamente con funcionarios de la Policía de Investigaciones de Chile, quienes, previos peritajes y por disposición de la referida autoridad judicial, retiraron el cuerpo y lo remitieron al Servicio Médico Legal de Temuco, para la autopsia de rigor. Respecto de las circunstancias de la muerte de Matías Catrileo y la determinación de las responsabilidades penales a que hubiere lugar con motivo de los hechos descritos, serán establecidas por los tribunales de justicia que tienen a su cargo la investigación, ya que Carabineros dio cuenta de estos hechos tanto a la justicia ordinaria como a la militar.

425. Mediante Parte N° 05 de 4 de enero de 2008 de la Tenencia de Carabineros Vilcún se formuló la correspondiente denuncia ante la Fiscalía de Temuco, mientras que a través de Parte N° 01 de enero de 2008, se denunciaron los hechos a la Fiscalía Militar de Temuco, instruyéndose en esta última la causa rol 2-2008, por el delito de violencias innecesarias con resultado de muerte, habiendo sido sometido a proceso el Cabo 2° de Carabineros, de dotación de la Subcomisaría “Fuerzas Especiales” de la Prefectura de Cautín, a quien luego de haber permanecido en prisión preventiva se le otorgó el beneficio de la libertad provisional bajo fianza, por resolución de 31 de enero de 2008, de la Ilustrísima Corte Marcial.

426. La actuación del personal de Carabineros, como la del resto de los participantes en los hechos informados, están sometidas al conocimiento y decisión de los Tribunales de Justicia, a quienes la Constitución Política de la República y las leyes dictadas conforme a ella, entregan la competencia para pronunciarse válidamente sobre las eventuales responsabilidades penales que surjan de ellas, concurriendo a favor de los imputados las garantías procesales que reconoce el ordenamiento jurídico vigente, que asegura un justo y racional procedimiento.

427. Partiendo del supuesto de que Matías Catrileo murió como consecuencia de la fuerza innecesaria ejercida por un funcionario de Carabineros quien, en el contexto de la disuasión de actos de alteración del orden público cometidos en el fundo Santa Margarita, le disparó con su arma de cargo, tal conducta se enmarca dentro de lo prescrito por el artículo 330.1 del CJM, que tipifica y sanciona al militar que comete ejerciendo violencias innecesarias causa la muerte de una persona. Por tanto, tratándose del tipo penal de “violencias innecesarias con resultado de muerte” que establece el mencionado artículo 330.1, al ser cometido por un funcionario policial en el cumplimiento de funciones propias del servicio, su conocimiento, juzgamiento y ejecución de lo resuelto, corresponde exclusivamente a los Tribunales Militares, de conformidad con las disposiciones citadas. Lo anterior, guarda armonía con lo prescrito en los artículos 76 incisos 1° y 3° y 82 inciso 1° de la Constitución Política de la República y 1° y 5° inciso 3° del Código Orgánico de Tribunales, ya que los Tribunales Militares, en tiempo de paz, forman parte del Poder Judicial como “Tribunales Especiales”, rigiéndose en su organización y atribuciones por las disposiciones del Código de Justicia Militar. En consecuencia, desde la reforma constitucional de 2005, los Tribunales Militares están sujetos a la superintendencia de la Corte Suprema.

### **Carta de alegaciones**

428. El 5 de marzo de 2008, la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y el Relator Especial sobre la tortura en relación con la supuesta detención arbitraria y los supuestos tratos denigrantes sufridos por los **Sres. Juan y Jorge Huenchullán Cayul**, de la comunidad de Temucucui, y por otros miembros de comunidades mapuches del sur del país. El Sr. Jorge Huenchullán y la comunidad de



Temucuicui fueron objeto de la comunicación conjunta enviada al Gobierno por los titulares de mandato el 10 de julio de 2007.

429. De acuerdo con la nueva información recibida, el 2 de febrero de 2008, aproximadamente a las 22.00 horas, el Sr. Juan Huenchullán Cayul se encontraba en la plaza de la ciudad de Ercilla, región de la Araucanía, cuando se dirigía a su residencia familiar, en la comunidad de Temucuicui, a 12 km de aquella localidad. En ese momento, el Sr. Huenchullán habría sido supuestamente interceptado por carabineros pertenecientes a las Fuerzas Especiales de la Prefectura de Malleco, quienes lo habrían identificado como miembro de la comunidad de Temucuicui. Sin mediar ningún acto de provocación por su parte, dichos carabineros habrían supuestamente comenzado a golpear e insultar al Sr. Huenchullán.

430. Al percatarse de la situación, distintos miembros de comunidades mapuches presentes en la plaza de Ercilla, incluyendo algunos miembros de la comunidad de Temucuicui, intentaron intervenir para impedir que el Sr. Huenchullán fuera golpeado por los carabineros, produciéndose un forcejeo. Como resultado de dicho altercado, habrían sido detenidos, además del Sr. Huenchullán, el Sr. Miguel Ángel Villanueva Nahuel, de la comunidad Coñomil Epuleo; los Sres. Luis Arzola Ancaluán y Henry Queipul Morales, de la comunidad de Temucuicui; el Sr. Víctor Hugo Calhueque Millanado, de la comunidad Huañaco Millao; y el Sr. Víctor Colihuanca, de la comunidad Ankapi Ñancuhew.

431. Asimismo, como resultado del altercado, habría resultado supuestamente herido el Sr. Mihael Carbone Queipul, que habría sufrido un profundo corte en su cráneo a consecuencia del culatazo que le habría propinado un carabiniere con su arma de servicio. A consecuencia de dicha herida, el Sr. Carbone habría sido trasladado hasta el consultorio de Ercilla, donde habría recibido varios puntos de sutura. Según las alegaciones, al desplazarse posteriormente a la Tenencia de Carabineros para denunciar su lesión, el Sr. Mihael Carbone habría sido detenido y nuevamente golpeado.

432. Según las informaciones recibidas, todos los detenidos habrían sido posteriormente trasladados hasta la comisaría de Collipulli. Los Sres. Jorge Huenchullán Cayul, Víctor Calhueque Millanao, Henry Queipul Morales y Marcelo Villanueva Nahuel habrían sido supuestamente amarrados a un poste ubicado en un pasillo de la comisaría, permaneciendo toda la noche en dicho estado.

433. Alrededor de las dos de la madrugada, el werken (autoridad tradicional) de la comunidad de Temucuicui, Sr. Jorge Huenchullán Cayul, acompañado del Sr. Marcelo Villanueva Nahuel, hermano de uno de los supuestamente detenidos, se habría trasladado a la Tenencia de Carabineros de la ciudad de Ercilla para averiguar el estado de todos los detenidos. Mientras esperaban de ser atendidos, los Sres. Huenchullán y Villanueva habrían sido supuestamente arrestados por efectivos de las Fuerzas Especiales. Durante su traslado a la comisaría de Collipulli, los Sres. Huenchullán y Villanueva habrían sido supuestamente víctimas de golpes propinados por los carabineros que los acompañaban e insultados con epítetos racistas. Según las alegaciones, en el momento de su ingreso en

una celda de la comisaría de Collipulli, el Sr. Jorge Huenchullán habría sido supuestamente rociado en la cara con gas lacrimógeno, siendo objeto de burlas por parte del personal de carabineros.

434. Los detenidos habrían permanecido supuestamente más de 13 horas en dependencias policiales. Durante su interrogatorio, los detenidos habrían sido objeto supuestamente de golpes por parte de los carabineros. El día 3 de febrero de 2007, alrededor de las 15.00 horas, los detenidos habrían sido trasladados hasta el Tribunal de Garantías de Collipulli para la realización del control de detención. El Tribunal habría abierto en contra de los detenidos un proceso ante la justicia militar, imputándoles un delito de atentado en contra de los carabineros y poniéndoles en libertad con medidas cautelares. El Sr. Henry Queipul Morales, por su parte, habría sido trasladado a la cárcel de Angol, debido a una supuesta orden de detención pendiente en su contra.

435. Se alegó que los sucesos descritos son parte de un patrón más amplio de discriminación y malos tratos contra miembros de las comunidades mapuches por parte de las fuerzas de seguridad. Asimismo, se expresó preocupación por el hecho de que la detención y los supuestos malos tratos sufridos por los Sres. Juan y Jorge Huenchullán Cayul y las otras personas arriba mencionadas puedan estar relacionadas con la situación de conflictividad que atraviesan las comunidades de Temucuicui y de Ankapi Ñancuhew a raíz del contencioso por la propiedad de sus tierras tradicionales.

### **Respuesta del Gobierno**

436. Mediante carta fechada el 1 de octubre de 2008, el Secretario General de Carabineros respondió a la carta de alegaciones. El Gobierno informó de que ninguno de los ciudadanos mencionados en el llamamiento urgente ha sido objeto de violación alguna de sus derechos humanos. La carta informó que la noche del día 3 de febrero de 2008, un grupo de individuos en manifiesto estado de ebriedad, se encontraban efectuando desórdenes, razón por la cual, el personal de carabineros procedió a su fiscalización con la finalidad de conducir a los infractores hasta la unidad policial, oportunidad en que alrededor de 30 adultos, trataron de impedir el procedimiento, agrediendo al personal mediante golpes de puños, a raíz de lo cual resultaron cuatro carabineros lesionados.

437. Asimismo, la carta informó que fueron detenidos los Sres. Juan y Jorge Huenchullán Cayul, entre otros, y de que ellos fueron trasladados desde la tenencia Ercilla hasta la segunda comisaría Collipulli. Aproximadamente unas 50 personas se apostaron en el perímetro de la citada tenencia y desde allí, arrojaron piedras contra el cuartel policial.

438. Con referencia de los golpes y amenazas sostenidos por el Sr. Juan Huenchullán Cayul, la carta comunicó que las alegaciones carece alguna fundación. Asimismo, en respuesta de la alegación de que los detenidos fueron amarrados a un poste en el pasillo de la Comisaría, comunicó que los detenidos fueron ingresados al interior de la sala de imputados de la unidad.

### **Llamamiento urgente**

439. El 14 de abril de 2008, la Representante Especial, junto con el Relator Especial sobre la tortura, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **Waikilaf Manuel Cadin Calfunao**, estudiante y miembro de la comunidad mapuche “Juan Pallalef” ubicada en la comuna de Cunco en la IX región de Chile. El Sr. Cadin había sido objeto de llamamientos urgentes emitidos por el Relator Especial sobre la tortura, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Representante Especial sobre la situación de los defensores de los derechos humanos, el 30 de agosto y el 27 de octubre de 2006.

440. De acuerdo con las informaciones recibidas, el 3 de abril de 2008, el Sr. Waikilaf Manuel Cadin Calfunao se habría encontrado sentado en la entrada de la sede de la administración regional, en Temuco, después de que se terminara una marcha conmemorativa a los tres meses del asesinato de otro estudiante mapuche, el Sr. Matías Catrileo Quezada. Según se informó, seis agentes policiales uniformados habrían detenido al susodicho, supuestamente ejerciendo una fuerza excesiva y sin informarle de sus derechos.

441. Asimismo, durante el arresto, se le habría golpeado y amenazado al Sr. Cadin Calfunao con un arma de grueso calibre. A continuación, habrían llegado varios agentes de la unidad antidisturbios de la policía, quienes habrían trasladado al susodicho a la segunda comisaría urbana de Temuco. Se había informado que, durante la detención se habría utilizado un perro que habría atacado al Sr. Waikilaf Cadin Calfunao provocándole heridas en el cráneo.

442. En la comisaría, un agente policial habría afirmado que el incidente surgió de un control de identidad y que al oponerse, el susodicho había sido detenido para verificar con la fiscal de turno cuál sería su situación. Adicionalmente, un funcionario de carabineros habría declarado a tres personas que fueron a la Comisaría para informarse sobre el estado de los detenidos que él mismo había sido el autor de la golpiza y que “si querían lo denunciaron a las Naciones Unidas o a quienes quisieran”, además, otro funcionario habría amenazado al Sr. Waikilaf Cadin Calfunao, diciéndole que “mejor ándate del país, si no te vamos a tener toda tu vida preso”. El 5 de abril de 2008, el susodicho habría sido llevado al Hospital “Hernán Henríquez” de Temuco a fin de examinar las lesiones sufridas durante su arresto y detención. Además se le habría examinado estando él esposado así impidiendo un examen comprensiva de su estado físico.

443. Se alegó que la detención del Sr. Waikilaf Manuel Cadin Calfunao pueda tener relación directa con sus actividades en defensa de los derechos humanos, en particular los derechos de la comunidad mapuche en Chile. En vista de las informaciones aquí resumidas se expresó profunda preocupación por su integridad física y psicológica.

## **Observaciones**

444. Al momento de finalización del presente informe, no se había recibido respuesta a las comunicaciones de 15 de enero de 2008 y de 15 de abril de 2008. La Relatora Especial lamenta este hecho. Asimismo, la Relatora Especial expresa su seria preocupación por varios casos de supuestas amenazas dirigidas en contra de defensores cuyo trabajo está enfocado en los derechos de los pueblos indígenas.

### **China (People's Republic of)**

#### **Replies from the Government to communications sent before 11 December 2007**

445. In a letter dated 15 January 2008, the Government of China responded to the urgent appeal of 5 November 2007 regarding the case of Ms **Mao Hengfeng**. The Government indicated that after being taken into custody, Mao Hengfeng was placed in a cell with two other offenders and was not placed in solitary confinement. Mao has never been beaten by any other female prisoners, nor has she been in any fights with other women inmates or suffered any “cuts and bruises”. The results of the physical examination carried out on Mao’s admission to the detention facility demonstrated that she suffered from high blood pressure, but other indications were normal. After undergoing treatment for her condition at the hospital, her blood pressure has now returned to normal. Her most recent full medical was carried out by the hospital in early December. While undergoing treatment, Mao has never been subjected to any forced medication. The allegations in the communication that we have received that Mao has been subjected to ill treatment are not supported by the facts. Prison officers treat prisoners in accordance with the law and Mao enjoys her rights on the same footing as the other prisoners: her right to health, her right to appeal and all other legitimate rights of which she has not been stripped are protected by law. Since her admission to the detention facility, she has received monthly visits from family members, including her husband and daughter. To date, Mao herself has submitted no written complaints, nor has she sought a meeting with her lawyers.

446. In a letter dated 15 January 2008, the Government of China responded to the urgent appeal of 9 October 2007 on Mr **Zheng Dajing**. The Government responded that on 20 December 2000, the Yunxi branch was closed down and Zheng’s employment contract with the Bank of China was terminated, and a lump-sum compensation payment made to him of 59,133.33 yuan. After termination of his employment contract, Zheng initially continued to occupy the single-storey house allocated to him by his former work unit, and subsequently sublet it to another tenant. In 2004, Zheng asked to be allowed to participate in the housing reform process and to be able to buy the single-storey house which he had been occupying. Because he had already terminated his employment contract with his former work unit, however, the house in question did not fall within the scope of the housing reform process; accordingly, the work unit refused his request. In June 2004, the Shiyuan branch of the Bank of China placed the remaining assets of the Yunxi local branch under administration and, acting in accordance with the law, arranged to sell these assets in a job lot by auction, including the house which Zheng had been

occupying, together with its plot of land. The bank proceeded to carry out the transfer of ownership formalities, in accordance with the law. On 21 May 2005, the purchaser posted announcements that the property should be vacated, giving notice that redevelopment of the property would commence on 25 May. Zheng was of the view that he had a lease agreement with the Shiyuan branch of the Bank of China and that he had the right of first refusal in purchasing the property. He then instituted court proceedings against the Shiyuan branch of the Bank of China and the purchaser, seeking a court order nullifying the sale between the Shiyuan branch of the Bank of China and the transfer of ownership of the land and confirming his right of first refusal in purchasing the property. Hearing the case at first instance, the Maojian district court in Shiyuan city decided that, following the termination of Zheng's employment relationship with his original work unit, his status had become that of a non-employee and he no longer had any property rights to the building in question, nor was there any evidence to show that he had a lease agreement with the work unit that owned the building. Accordingly, the court dismissed his application. Zheng refused to accept the court's decision and lodged an appeal. On 9 December 2005, the Shiyuan city people's high court passed judgement, dismissing the appeal and upholding the original ruling. In order to resolve the issue of Zheng's housing, on 27 June 2007 the local authorities allocated funds to buy housing to provide Zheng with free accommodation, and also set aside adequate housing and a lump sum for his relocation costs. Zheng would not accept the arrangement, however. In view of Zheng's difficult living circumstances, in the second quarter of 2002 the local authorities started issuing him the minimum social welfare support. Zheng refused to accept the court's ruling and on many occasions travelled to Beijing to lodge appeals. On 14 June 2007, Zheng and other complainants gathered at the Supreme Court to submit complaints, and were involved in clashes with the security personnel. The public security authorities investigated Zheng's conduct on suspicion that the irregular manner in which he had lodged his complaints had disrupted law and order, but he was neither taken into criminal custody nor placed under arrest. Nor was there any instance of Zheng being subjected to beatings or ill treatment. Since 2005, Zheng Dajing's wife Cao Xiangzhen has accompanied her husband to Beijing to make complaints, bringing her daughter with her. The relevant authorities approached Cao, pointing out that her daughter should be temporarily entrusted to the care of friends or family, but Cao argued that her daughter Zheng Linxin was still very young and unable to fend for herself, and that Cao had to keep the child with her. There was no question, as alleged, of Cao being detained together with her daughter. Taking into consideration the fact that, while accompanying her parents on their trips to make complaints, Zheng Linxin was missing out on school, the relevant district authorities in this county town specially appointed two school teachers to provide make-up classes for the girl during the summer vacation period, which were provided at a specially reduced rate.

447. In letter dated 13 February 2008, the Government responded to the urgent appeal of 4 December 2007 regarding Mr **Li Guohong**. The Government informed that in 2001, Li agreed to terminate his employment contract with the Zhongyuan Oil Field and, in 2003, relocated to Chongqing. On two separate occasions, in May 2006 and October 2007, Li organized unlawful gatherings, marches and demonstrations around the premises of the Zhongyuan Oil Field management, obstructing traffic and disrupting the normal

work routine at that company. For this he was placed in administrative detention for a period of 15 days by the Zhongyuan Oil Field public security bureau. On 16 November 2007, in application of the relevant provisions of the State Council decision on the question of labour re education, the State Council's supplementary provisions on labour re-education, and article 10, paragraphs 4 and 5, and article 13 of the pilot procedures for labour re-education, the Puyang city labour re-education management committee ordered Li to serve a penalty of 1 year and 6 months' labour re-education for disrupting law and order. His re-education term commenced on 31 October 2007 and is to run until 30 April 2009. On 16 November 2007, Li was admitted to the Puyang labour re-education facility to serve his term and he remains in excellent physical health.

448. In a letter dated 25 February 2008, the Government responded to the urgent appeal of 30 November 2007 regarding the **Dagongzhe (DGZ) Centre for Migrant Workers** and Mr **Huang Qingnan**. The Government stated the following: Huang Qingnan, male, born 7 June 1973, ethnic Han Chinese, from Huian county in Fujian, manager of the Dagongzhe ("Migrant Workers") Store in Shenzhen city. On 20 November 2007, Huang was passing through Longhu New Village, where he was chatting with a friend in the entrance to a shop. Suddenly two unidentified men, wielding knives, attacked Huang, stabbing him in the body and inflicting injuries to his back and both legs, whereupon they mounted a ladies-style motorcycle that was there to pick them up and fled the scene. Prior to this, on two occasions Huang and the Dagongzhe Store had been subject to violent attacks. At about 7 p.m. on 11 October 2007, five men had ridden up to the store on two motorcycles, smashed the store windows and then fled. At about 4 p.m. on 14 November, a gang of unidentified men drove up to the Dagongzhe Store in a white passenger vehicle and proceeded to smash the doors and windows and the equipment in the store before fleeing the scene in their vehicle.

A. The information in the communication which we have received regarding the injuries to Huang Qingnan and the damage to the Dagongzhe Store is essentially consistent with the facts, but there are two points that are not quite accurate. First, the communication states that the "Dagongzhe Centre" is a non-governmental organization that provides free legal aid to migrant workers in Shenzhen and that Huang Qingnan is the licence-holder of this organization. Following inquiries, it was ascertained that there is no "Dagongzhe Centre" registered in Shenzhen, and Huang only registered the Dagongzhe Store, which was registered, furthermore, as a household goods retail outlet. Second, according to the communication, on 14 November 2007, at 4 p.m., four men broke into the Dagongzhe Centre and police on patrol at the time did not take any action. Following inquiries, it has been ascertained that there were no police officers on patrol; instead, in the vicinity there were a few members of the Longhu New Village neighbourhood watch. Once a report was filed with the Tongle police station, police officers were dispatched to the scene immediately, but the attackers had already fled. The people's police promptly launched investigation procedures in the area, including surveillance, crime-scene investigation, interviewing of witnesses and other measures.

B. Complaint by the victim: Following these incidents, the victim, together with employees of the Dagongzhe Store and other individuals and organizations, wrote a joint letter, submitting various complaints to the Guangdong provincial public security department, the Shenzhen public security bureau and other units. The complaints

essentially concerned three points: first, that efforts should be made to apprehend the culprits committing these vicious offences; second, that Huang Qingnan should be helped to obtain appropriate medical treatment; and, third, that security measures and protection of the safety of citizens should be stepped up.

449. Judicial investigation and physical examination of the victim: on 20 November 2007, as soon as the matter was reported to the police, the Shenzhen city public security bureau, the Longgang district branch office and the Tongle neighbourhood police station promptly dispatched officers to the scene. When the officers arrived at the scene, the injured victim had already been taken to hospital for emergency treatment. The Tongle police station immediately launched a criminal investigation into his case.

The Guangdong provincial public security department and the Shenzhen city public security bureau attach great importance to this case. On 26 December 2007, the Shenzhen city public security bureau set up a special three-level task force, comprising police officers from the city public security bureau, the district branch office and the neighbourhood police station and headed by the assistant commissioner. The task force's functions included such areas as criminal investigation, operational technology, Internet searches and others. For a number of objective reasons, however, including the complicated background of the Dagongzhe Store and its role in the community, the relatively large area of the incident and the difficult conditions under which the investigative analysis had to be conducted, the case has still not been solved. The special task force is stepping up its efforts and working hard to resolve this matter as quickly as possible. The public security authorities are actively assisting Huang in continuing his treatment and arranging for an appraisal of his injuries. Currently, Huang is undergoing continued treatment at Shenzhen People's Hospital No. 2 and his condition is stable. Following a preliminary appraisal, his injuries have been categorized by the injury appraisal centre of the Longgan public security bureau as minor, and the results of the examination will be further appraised with a view to determining the state of his injuries and the progress in his recovery.

450. In a letter dated 25 February 2008, the Government responded to urgent appeal of 5 October 2007 regarding the situation of **Li Heping**. At 8 p.m. on 30 September 2007, Li Heping reported at the Maizidian police station of the Chaoyang branch of the Beijing public security bureau, claiming that in the evening of 29 September he had been abducted and beaten by a gang of unidentified persons. In response, the Chaoyang public security office, following the procedures prescribed by law, made a written report of their interview with the complainant, and referred Li Heping to Beijing hospital for a medical examination. In this examination, contusions were found to his soft tissue, but not of sufficient gravity to warrant launching a criminal investigation, as this was more a question of disturbance of the peace. The police officers attending to the case requested Li Heping to provide any further evidence and undertook to investigate the matter thoroughly. On 19 October the police officers attending to the case called Li Heping to ask him to report to the police station to provide relevant information, to assist them in their further investigations. Li Heping explained that he was currently in Henan visiting relatives and could not report at the police station. Investigations in this case are continuing.

### **Urgent appeal**

451. On 28 December 2007, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning Ms **Liu Jie**, human rights defender and veteran rural campaigner. Ms Liu Jie was the subject of an urgent appeal sent on 25 October 2007 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders to which the Government had not yet responded.

452. According to the information received; on 26 October 2007 Liu Jie's husband was told by officers at the Beian City Nongken Detention Center, where Liu Jie was detained, that she would be released on that day. However, when he went to the detention center that afternoon, he was told that it had been decided to send Liu Jie to Re-education through Labor (RTL). RTL is an administrative detention measure, according to which, without any proper legal procedures or court proceedings, the Public Security Bureau can send individuals to detention facilities for a maximum of four years. Detainees sent to RTL are deprived of their rights to legal counsel and appeal. Ms Liu Jie was currently serving her 18-month RTL term in Qiqihaer, Heilongjiang province, where she had to work 14 hours a day, six days a week.

453. According to a doctor who examined her on 20 December 2007, Ms Liu Jie would go blind if she did not receive proper treatment immediately. Reportedly, Liu Jie's eye injuries required treatment unavailable in Heilongjiang Province so she must be sent to Beijing for treatment. Her family had requested RTL authorities to grant her bail for medical treatment. Her lawyers had also filed a request for an administrative review of the decision to send her to the RTL camp. The authorities had reportedly not responded to either of these requests. The eye injuries were said to be linked to beatings she suffered because of her petitioning and human rights activities. She was reportedly beaten a number of times by Heilongjiang Provincial Nongken (Military Farm Bureau) Public Security Bureau Beian Sub-division personnel. In March 2002, in one such beating, she suffered permanent eye injury and drastically reduced vision. While in detention, she was again beaten, which caused further injuries to her eyes.

454. Concern was expressed for the health and physical integrity of Ms. Liu Jie. The mandate-holders were also concerned that the detention without due process and the beatings of Ms Liu Jie were linked to her human rights activities.

### **Response from the Government**

455. In a letter dated 6 March 2008, the Government indicated that because Ms Liu Jie had caused a public nuisance and disturbed the peace, Jie was ordered to serve a term of



one year and six months' labour re education, to run from 13 October 2007 to 12 April 2009. On 14 November 2007, Liu was sent by the public security bureau attached to the agricultural and land reclamation service in the city of Bei'an to the labour re education facility in the city of Qiqihar to serve her term of labour re education.

456. After entering the facility, Liu had problems with her vision in both eyes. On 15 November 2007, the doctor at the re education facility first took Liu to the hospital of the agriculture and land reclamation service and then to the eye, ear, nose and throat hospital in Qiqihar to be examined. The results of the examination were as follows: "1. Ametropia and vitreous opacity in the right eye; 2. traumatic cataract in the left eye (aphacia); 3. high degree myopia in the right eye." As Liu was not prepared to cooperate, it was not possible for any further examinations to be carried out.

457. On 20 December 2007, the hospital at the labour re education facility once again sent Liu for an examination by eye specialists at Qiqihar hospital No. 1. The results of the consultation were as follows: "The left eye has undergone cataract surgery; high degree myopia in the right eye; pathological retinal degeneration." The consultant suggested that Liu see an optometrist to have glasses prescribed, but she refused. At that time Liu asked the doctor about the possibility of a lens implant in her left eye, and whether implanting a lens could have other consequences for her eyes. The doctor told her that whether she had this done sooner or later would not affect the consequences, but that it would be better to have it done sooner. The doctor did not on any account say that, if she did not receive urgent treatment, she could lose the vision in her eye or that Heilongjiang province did not have adequate facilities to treat Liu's eye injury and that she must be sent to Beijing for treatment, and other such allegations.

458. In mid January 2008, Liu's husband came to the labour re education facility to demand that Liu be allowed to see a doctor outside the facility immediately. As Liu herself was not cooperating in having examinations, it was impossible to determine whether or not, in accordance with the stipulations of the law, her medical condition warranted her being allowed to leave the facility for medical treatment.

459. Following Liu's admission to the facility, the labour re education facility has enforced the law with fairness and, in accordance with the law, has protected Liu's rights and interests; she has not been beaten, subjected to punishment or to any form of ill treatment. Liu's eye problems are also not growing worse. In view of Liu's state of health, the re education facility is particularly attentive to her. Liu is only required to perform light manual duties that are well within her grasp and she has not been placed on any fixed work schedule or duty roster.

### **Urgent appeal**

460. On 4 January 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the

government concerning Mr **Hu Jia**, a pro-democracy campaigner and HIV-AIDS activist. He is co-founder of the Beijing Aizhixing Institute of Health Education and an outspoken advocate for those affected by HIV/AIDS. Mr Hu Jia was the subject of allegation letters sent by the Special Representative of the Secretary-General on the situation of human rights defenders on 3 December 2007 and 31 May 2007, and an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Representative of the Secretary-General on the situation of human rights defenders on 2 June 2004.

461. According to information received; Mr Hu Jia was detained on 27 December 2007 on suspicion of “inciting subversion of state power”. Approximately twenty policemen came to his home, where he and his wife and child had been under house arrest. The police reportedly surrounded the house, disconnected the telephone and internet connections and confiscated their mobile phone, before taking Mr Hu Jia into custody. Several policemen remained at the house in order to prevent Mr Hu Jia's wife from making his detention public. Mr Hu Jia's current whereabouts are unknown.

462. Concern was expressed that the alleged incommunicado detention of Mr Hu Jia and the intimidation of his family may be directly related to his human rights activities, in particular his work to defend the rights of those living with HIV/AIDS in China. Further concern was expressed for Mr Hu Jia's physical and psychological integrity while reportedly in incommunicado detention.

### **Response from the Government**

463. In a letter dated 6 March 2008, the Government indicated that following enquiries by the Chinese public security authorities, it was ascertained that over the past few years Hu Jia had been colluding with foreign agencies, organizations and individuals, to foment subversion of State authority, by such means as spreading rumours and propagating slander, in violation of the Criminal Code of the People's Republic of China, and was suspected of the offence of incitement to subversion of State authority. At the same time, Hu Jia was suspected of arranging for persons unspecified from abroad to enter China unlawfully while the Olympic Games were under way in Beijing and to come to the venue of the Olympic Games in order to cause disturbances and to disrupt the smooth conduct of the Games. For the purpose of perpetrating the above unlawful actions, Hu Jia had separately opened several dozen accounts in some dozen banks and had received dozens of fund transfers from abroad.

464. On 27 December 2007, the Beijing city public security authorities took Hu Jia into criminal custody for the purposes of investigation and, on 29 January 2008, the procurator's office authorized his arrest. Following preliminary enquiries, Hu Jia fully acknowledged the facts of the violations of the law alleged in the charges against him by the public security authorities, accepted that his conduct had been in breach of the law and expressed the hope that he would be treated with leniency. On 18 February, Hu Jia's case was referred to the Beijing procurator's office for examination and prosecution. The case is currently still under consideration and investigation.

465. In the course of applying measures of restraint against Hu Jia, the Beijing public security authorities have abided strictly by the relevant provisions of the Criminal Code and the Code of Criminal Procedure and have taken practical steps to guarantee Hu Jia's exercise of his rights as a person suspected of a criminal offence. Hu Jia's appointed legal counsel and members of his family have had meetings with him and he is currently in excellent physical health.

### **Letter of allegations**

466. On 22 January 2008, the then Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegations to the Government concerning Mr **Li Jinsong** and Mr **Li Fangping**. The aforementioned are lawyers of the detained pro-democracy campaigner and HIV-Aids activist Mr Hu Jia., who was most recently the subject of an urgent appeal sent by the Special Representative of the Secretary-General on the situation of human rights defenders, the working group on arbitrary detention, and the Special Rapporteur on torture, on 4 January 2008.

467. According to information received, on 10 January 2008, Mr Li Jinsong was reportedly placed under house arrest for several hours in a Beijing hotel, after inviting foreign journalists to confirm that it was impossible for him to see Mr Hu Jia's wife, Ms Zeng Jinyan. He is allegedly under surveillance by the police. According to reports, Mr Hu Jia's other lawyer, Mr Li Fangping, was not detained but he was allegedly strongly urged not to try to approach Ms Zeng Jinyan's home. Furthermore, foreign journalists and friends and relatives of Ms Zeng Jinyan and her husband were reportedly prevented by police from visiting or communicating with her on 11 January 2008. The police allegedly stated that it was because a "criminal investigation" was underway.

468. Concern was expressed that the aforementioned arrest of Mr Li Jinsong and the intimidation of Mr Li Fangping may be directly related to their human rights activities, particularly their defence of Mr Hu Jia. Further concern was expressed for the physical and psychological integrity of Mr Hu Jia while in detention, as well as that of the members of his family.

### **Response from the Government**

469. At the time this report was finalized, the reply of the Government of 10 September 2008 had not been translated.

### **Letter of allegations**

470. On 22 February 2008, the then Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations concerning Mr **Yang Chunlin**, a farmers' representative and land-rights activist in Heilongjiang province. Mr Yang Chunlin was the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group

on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders, on 5 September 2007, following his detention on 6 July and formal arrest on 13 August 2007.

471. According to new information received on 19 February 2008, Mr Yang Chunlin was tried by the Jiamusi City Intermediate People's Court in Heilongjiang Province on charges of 'inciting subversion of state power'. Mr Yang Chunlin reportedly entered the court in handcuffs and leg-irons. In a meeting with his lawyers, Mr Yang Chunlin stated that he had been allowed out of his prison cell only seven or eight times since his detention in July 2007. He was also not notified about the trial until the day before its commencement and as a result, had no time to write a defense letter. Mr Yang Chunlin is currently detained at the Heitong Detention Center, Heilongjiang Province; the verdict on his case being expected at a later date.

472. It is believed that the charges against Mr Yang Chunlin were brought as a result of an open letter he collected more than 10,000 signatures for, entitled "We Want Human Rights, not the Olympics". During the trial, defense lawyers demanded that the state provide evidence linking the letter to "inciting subversion of state power". The prosecutors reportedly only stressed that the letter had drawn the attention of international media and left a negative impact internationally.

473. Concern was expressed that the arrest and detention of Mr Yang Chunlin may have been directly related to his activities in defense of human rights, particularly his exercising of the right to freedom of expression. Further concern was expressed for his physical and psychological integrity while in detention.

### **Response from the Government**

474. At the time this report was finalized, the reply of the Government of 10 April 2008 had not been translated.

### **Letter of allegations**

475. On 22 February 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations in relation to the situation of Mr **Lu Gengsong**, a prominent freelance-writer who has published several pro-democracy internet articles and books on political reform. Mr Lu Gengsong was the subject of an urgent appeal, sent by the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, on 30 August 2007. According to information received:

476. On 5 February 2008, Mr Lu Gengsong was sentenced to four years in prison and one year of deprivation of his political rights after being convicted on charges of

‘incitement of subversion of state power’ by the Hangzhou City Intermediate People’s Court, following a closed trial on 22 January 2008 which lasted 15 minutes. A number of supporters and friends of Mr Lu Gengsong were reportedly prohibited by the Hangzhou Public Security Bureau (PSB) from attending the sentencing by being placed under house arrest or from entering the court building.

477. Mr Lu Gengsong has been detained since his arrest at his home on 24 August 2007. Reports at the time of his arrest stated that the police had informed Mr. Lu’s family that the main reason for his detention had been articles he had written which were critical of the Chinese Communist Party. Mr Lu Gengsong is currently detained at the Xihu (West Lake) Detention Center in Hangzhou City pending appeal of his case.

478. Concern was expressed that the conviction and sentencing of Mr Lu Gengsong may be directly related to his activities in defense of human rights, particularly his exercising of the right to freedom of expression

### **Response from the Government**

479. At the time this report was finalized, the reply of the Government of 24 April 2008 had not been translated.

### **Urgent appeal**

480. On 6 March 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Ms **Wang Guilan**, a human rights activist and one of the organizers of an open letter calling for an improvement in the human rights situation in China. According to information received:

481. On 28 February 2008, following the publication of the above open letter with the signatures of over 12,000 petitioners, Ms Wang Guilan was arrested in Beijing by police from the Public Security Bureau of her home province, Hubei. Her current whereabouts are unknown. A number of other petitioners involved in the public letter were also detained by police.

482. In view of the alleged detention of Ms Wang Guilan at an undisclosed or unconfirmed location, concern was expressed that she may have been at risk of torture or other forms of ill-treatment. Further concern was expressed that Ms Wang Guilan’s arrest and detention may have been directly related to her activities in defense of human rights, particularly her peaceful exercise of the right of freedom of expression.

### **Response from the Government**

483. At the time this report was finalized, the reply of the Government of 24 April 2008 had not been translated.

### **Urgent appeal**

484. On 13 March 2008, the then Special Representative, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government concerning Mr **Teng Biao** and Mr **Li Heping**. Both of the aforementioned are human rights lawyers. Mr Teng Biao was the subject of an urgent appeal sent by Special Rapporteur on the question of torture, Special Rapporteur on violence against women, its causes and consequences and Special Representative of the Secretary-General on the situation of human rights defenders, on 21 December 2006. Mr Li Heping was the subject of an urgent appeal sent by the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders on 5 October 2007. According to information received:

485. On the night of 6 March 2008, Mr Teng Biao was reportedly abducted from outside his home. Neighbours reported seeing Mr Teng Biao being put into an unmarked black car. No information on Mr Teng Biao's whereabouts is available.

486. Reports received also indicate that, on 7 March 2008, an unmarked car crashed into Mr Li Heping while he was driving his son to school. It is reported that there were three people in the unmarked car, who may belong to a group reportedly following Mr Li Heping since January 2008.

487. Serious concern was expressed that the abduction of Mr Teng Biao and the incident involving Mr Li Heping may have been directed to their activities in defense of human rights, in particular their legal representation of human rights and pro-democracy activists in China. Grave concern was expressed for their physical and psychological integrity.

### **Response from the Government**

488. At the time this report was finalized, the reply of the Government of 24 April 2008 had not been translated.

### **Urgent appeal**

489. On 20 March 2008, the then Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, Special Rapporteur on freedom of religion or belief, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning reports of **violence during demonstrations in the Tibet Autonomous Region and surrounding areas in China**,

**killings of an unconfirmed number of people and arrests of hundreds of demonstrators.**

490. According to allegations received, on 10 March 2008, demonstrations led by monks were organised demanding greater freedom of religion and the release of monks detained since October 2007. It is reported that 300 monks from Drepung Monastery, near Lhasa, proceeded with a peaceful march towards the Potala Palace when they were stopped by the police. It is believed that around 60 monks suspected to be the leaders of the protest were arrested by the Public Security Bureau (PSB).

491. Sixteen people, including 15 visiting students monks in Sera Monastery, identified as Lobsang, aged 15, Lobsang Thukjey, aged 19, Tsultrim Palden, aged 20, Lobsher, aged 20, Phurdan, aged 22, Thubdron, aged 24, Lodroe, aged 30, and Lobsang Ngodrub, aged 29, from Onpo Monastery, Sichuan Province; Zoepa, aged 30, from Mangye Monastery; Trulku Tenpa Rigsang, aged 26, Gelek Pel, aged 32, and Samten, aged 17 from Lungkar Monastery, Qinghai Province; Pema Karwang, aged 30 and Thubwang, aged 30, from Darthang Monastery; and Tsegyam, aged 22, from Kashi Monastery led a march on Barkhor Street in Lhasa, distributing pamphlets and raising Tibetan flags. It is reported that they were arrested by the People's Armed Police. Additional contingents of armed forces were then stationed in the area, and the police blocked roads and encircled Drepung and Sera monasteries around Lhasa to prevent further protests from taking place.

492. On the same day, about 350 people, including 137 monks from Lhutsang Monastery in the Tibetan area of Amdo in Mangra County, organised a protest in front of the Mangra County Assembly Hall where a government-sponsored show was taking place. The protest was stopped by the People's Armed Police. A number of arrests took place during the disruption of the protest, but no information on the whereabouts of the arrested monks has been received.

493. Reports indicate that on 11 March, 500 to 600 monks from the Sera Monastery called for the release of the monks arrested the day before and began a march towards Lhasa, but were met on the way by approximately 2,000 armed police. The crowd was reportedly dispersed with tear-gas. A number of monks were detained and then released.

494. On 11 March, the police surrounded and sealed off Ditsa Monastery in Hualong County in Qinghai Province after the monks held a protest.

495. On 14 March, violent incidents were reported in Lhasa as tension escalated between hundreds of demonstrators and police forces. Gunfire was heard in the streets, and shops and cars were set on fire. Allegations that a significant number of Tibetans and Han and Hui Chinese have been killed during the demonstrations have been received. Monks from Ganden and Reting monasteries joined the demonstrations, and the two monasteries were later sealed off by police. A number of monks from Sera Monastery started a hunger strike to protest against the sealing off of monasteries and the detention of monks.

Reports indicate that, in particular since 14 March, the wave of demonstrations by monks and lay people has spread in the whole Tibet Autonomous Region and in neighbouring provinces. These demonstrations have reportedly sometimes been violently repressed, in many cases leading to arrests of demonstrators. Allegations were received that since 14 March, the People's Liberation Army has been patrolling the streets of Lhasa.

496. On 15 March, shooting was reported inside the compound of Tashi Lhunpo Monastery in Shigatse, and at least 40 lay people demonstrating around the monastery were arrested. The next day, monks trying to escape the Kirti Monastery in Amdo in the Sichuan Province, which had been sealed off by the military, have allegedly been shot at; tear-gas was reportedly used on the demonstrators supporting the monks outside the monastery, and many demonstrators were severely beaten by the police. The police is then alleged to have shot into the crowd, killing and injuring a considerable but unconfirmed number of people.

497. On 17 March, students of Marthang Nationality Middle School in Hongyuan xian County, Aba Prefecture, Sichuan Province, aged between 14 and 20, started a protest inside the school. PSB officials blocked the entrance and beat the students while they were trying to come out of the school. Approximately 40 students are said to have been arrested. Around 700 students then staged a demonstration outside the Hongyuan xian County PSB office to protest against the detention of fellow students.

498. Since 10 March, it is reported that raids in the homes of people formerly imprisoned for their political opinions have taken place. Since 15 March, house-to-house searches are allegedly being carried out in Lhasa, with CDs and printed material being confiscated, and people being taken in custody. It is reported that on 15 March, at least 600 people had been arrested in Lhasa, either as a result of a house search or during demonstrations. Three hundred additional people were reportedly arrested on 16 March.

499. Reports indicate that on 13 March, the Lhasa Foreign Bureau Office has issued a warning to non-governmental organisations that any information given to foreigners regarding the protests could result in strict legal action against the concerned individuals and organisations, including the closing down of the latter.

500. On 17 March the authorities deported approximately 15 journalists from at least six Hong Kong television, radio and print organisations, accusing them of "illegal reporting" and of illegally shooting films of People's Liberation Army soldiers. The journalists were escorted to the airport and put on a plane to Chengdu in Sichuan Province, and the police is alleged to have looked into the journalists computers and video footages. The authorities allegedly refused to grant permits to allow foreign journalists to travel to the Tibet Autonomous Region as from 12 March, and are reported to have ordered them out of the Tibetan parts of Gansu and Qinghai provinces on 16 March, the police reportedly saying that it was for their safety. Further reports indicate that within the country, video-sharing websites as well as news websites are inaccessible



and that international news broadcasts are being cut when showing reports of the events in the Tibet Autonomous Region and surrounding areas in China.

501. On 15 March, the Tibet Autonomous Region High People's Court, Tibet Autonomous Region High People's Procuratorate, and Tibet Autonomous Region Public Security Department issued a notice, asking that:

“1. Those who on their own volition submit themselves to police or judicial offices prior to midnight on 17 March shall be punished lightly or dealt mitigated punishment; those who surrender themselves and report on other criminal elements will be performing meritorious acts and may escape punishment. Criminal elements who do not submit themselves in time shall be punished severely according to law.

2. Those who harbour or hide criminal elements shall be punished severely according to law upon completion of investigations.

3. Those citizens who actively report and expose the criminal behaviour of criminal elements shall receive personal protection, and granted commendations and awards.”

502. It was noted that according to the information received, demonstrations continued to take place, both in the Tibet Autonomous Region and neighbouring provinces, despite the official notice.

### **Response from the Government**

503. In a letter dated 21 May 2009, the Government responded to the communications of 20 March 2008 and 9 April 2008. The Government stated the events that occurred in March 2008 in Lhasa and other place, were incorrectly termed as “peaceful demonstrations” but were actually serious acts of criminal violence involving beating, the destruction of property, looting and arson. Faced with such violent acts, which seriously disrupted public order and did serious damage to human life, property and security, no responsible Government could simply sit back and not act. At present, the situation in the aforementioned areas has calmed down, and stability and public order have been restored. The judicial authorities of the Tibet Autonomous Region and the other areas in question are dealing with the criminal suspects severely, in accordance with judicial procedures. Those whose offences are lesser and who displayed a positive attitude, acknowledging their guilt, have been released. Those whose situations are more serious shall have their criminal responsibility investigated in accordance with the law.

504. The aforementioned serious violent criminal events were carefully plotted in advance and instigated by the Dalai clique. In their handling of the entire incident, the competent authorities of the Tibet Autonomous Region and other areas showed great restraint; they enforced the law in a civilized manner, and they enjoyed broad popular support. At the international level, however, some people have distorted the facts, creating untrue stories and providing the United Nations special procedures with

inaccurate information. Tibetan affairs are part of China's internal affairs; nevertheless, in an effort to help the special procedures learn the truth about these events and to prevent the Dalai clique and anti-China elements from exploiting them, the competent authorities of the Chinese Government have thoroughly investigated the incidents described in the aforementioned letter.

505. In mid-March 2008, a series of serious violent criminal acts took place in the city of Lhasa, in China's Tibet Autonomous Region. Starting on 10 March, a group of lawbreakers acting without authorization, gathered illegally to create a disturbance; when police officers arrived to dissuade them, in accordance with the law, they clashed with them, cursing them and violently attacking the officers with clubs, rocks and knives. At approximately 11 am on 14 March 2008, some monks at the Ramoche Temple threw stones at the police officers on duty. Subsequently, a group of rioters began to gather in Barkhor Street, shouting separatist slogans and wantonly beating, smashing and looting. The situation quickly spread. The lawbreakers smashed and burned shops, primary and secondary schools, hospitals, banks, electrical and communications installations and news agencies along the main streets of Lhasa and set fire to cars, chased and beat pedestrians, and attacked stores, telecommunications and Internet outlets and Government offices. The rioters' savage behaviour during these incidents resulted in the slashing or burning to death of 18 innocent persons, including an infant less than 1 year old; 382 innocent persons were also injured, 58 of them seriously. The rioters set fire to over 300 sites, burning down 7 schools, 5 hospitals, more than 1,300 and 120 homes, causing extensive loss of human life and property, and occasioning a direct economic loss of 280 billion yuan renminbi. Public order in the affected area was severely disrupted.

506. All ethnic minorities in Tibet expressed their great indignation at and severe criticism of the violent criminal acts that took place in Lhasa. The Tibet Autonomous Region quickly organized the police and other relevant agencies to put out the fire, provide aid to the injured and reinforce the security provided to schools, hospitals, banks and Government offices. The Chinese Government and the Government of the Tibet Autonomous Region took these measures to protect law and order and social stability, and to safeguard the human rights of all ethnic groups in Tibet. In dealing with these violent criminal incidents and restoring law and public order in accordance with the law, the competent Chinese and Tibetan Government authorities exercised the utmost restraint. While enforcing the law they consistently acted in a lawful and civilized manner; they did not carry or use any lethal or injurious weapons. The People's Liberation Army was not involved in the efforts to quell these violent criminal incidents.

507. At 11 am on 16 March 2008, more than 300 monks in Aba, Sichuan Province, assaulted and beat police officers, handing out inflammatory flyers and shouting separatist slogans; they threw rocks and homemade Molotov cocktails at the police and went on a rampage of smashing and burning. At 3 pm, a group of monks joined with other rioters to once again strike Government facilities, schools and police stations, engaging in smashing, looting and burning. That day rioters burned down 24 stores and 2 police stations and set fire to 81 police and civilian vehicles. Some 200 innocent bystanders, Government workers and police officers were injured.

508. Seeking to restore law and order, the local Government immediately took steps to bring the situation under control and protect life, property and fundamental human rights. During these incidents, law enforcement was carried out in a civilized manner by the local police, who consistently displayed a high degree of restraint; even though they had shields to protect themselves during the rioters' brutal attacks, scores of police officers were injured from blows and burns, one critically. The Chinese People's Liberation Army did not take part in the response to these incidents.

509. In their efforts to deal with the violent criminal acts in the Tibet Autonomous Region in accordance with the law and to restore law and order, the local Government authorities exercised maximum restraint; law enforcement was consistently carried out in a lawful and civilized manner and no lethal or injurious weapons were carried or used. For this very reason, there were only 242 casualties among law enforcement personnel, including 23 seriously injured and one dead.

510. On 16 March 2008, in the Tibetan Autonomous Prefecture of Aba, Sichuan Province, rioters broke into the Aba Township police station and stabbed the police officers. When the rioters stole police firearms from a safe, the police fired warning shots, in accordance with the law, to no effect. They were thus compelled to open fire in self-defence, striking and injuring four rioters, who managed to escape with their co-conspirators in the confusion. Immediately afterwards, the officers involved in the incident, acting pursuant to regulations, submitted a report to their superiors, which the national police promptly published. The firing of weapons in self-defence by the Aba police was fully consistent with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted at the 8<sup>th</sup> United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

511. During the violent criminal acts in Lhasa, when public order was severely disrupted and rioters were wilfully beating, burning and killing innocent persons, it was not safe for foreign reporters in Lhasa to cover the events. Reporters for the British publication *The Economist* and other foreign publications who were at the scene did provide coverage of the events. After the situation calmed down, the Chinese Government immediately organized a series of inspection tours to Tibet for representatives of 19 foreign media and delegations of foreign diplomats based in China. The Chinese media, including the Tibetan regional media, all reported on the events.

512. In the wake of the destructive events in Lhasa, the competent authorities of China and the Tibet Autonomous Region arrested a number of criminal suspects, who had participated in the events and had been involved in their organization and plotting. Among these were a number of monks and nuns. During the aforementioned incidents the rioters showed absolutely no respect for the rights and freedoms of innocent persons but wilfully disrupted public order and harmed the welfare of others. The Chinese and Tibetan Regional Governments consider that the lawful measures taken were fully consistent with the relevant provisions of international human rights instruments.

513. China is a country governed by the rule of law. Everyone is equal before the law and anyone who violates the law shall be liable to punishment in accordance with the law, with no distinction made for citizens on account of their religious beliefs. During the violent criminal acts that were perpetrated in Lhasa and other locations, a small number of monks and nuns took part in unauthorized demonstrations; in the course of these demonstrations they engaged in violent activities that lead the death of scores of persons and the injuring of hundreds more; they burned and destroyed public property, including numerous homes and schools, they advocated separatism, they harmed the State and they jeopardized public safety, seriously violating the Law of the People's Republic of China on Assemblies, Processions and Demonstrations and the Criminal Law of the People's Republic of China. The treatment shown by China's law enforcement and judicial authorities will differ depending on the nature of the criminal offence: where the offence is serious, the offender's criminal responsibility will be ascertained; where the offence is minor, the offender will be provided with education and released. This work is already under way.

514. In the wake of the violent criminal events that transpired in Lhasa, the law enforcement and judicial authorities of China and the Tibet Autonomous Region conducted investigation and inquiries in accordance with the law.

515. On 29 April 2008, the Lhasa Municipal Intermediate People's Court held and open trial of some persons accused of participating in the "events of 14 March". The court found 30 accused persons, (Pasang et al.) guilty of the crimes of arson, looting, instigating fights and troublemaking, assembling a group to attack a State organ, disrupting public service and theft. The defendants Pasang, Sonam Tsering and Tsering were sentenced to life imprisonment. The defendants Jigme, Kalsang Bagdro, Karma Dawa, Dorje, Migmar, Ngawang Choeyang and Bagdro were given sentences of fixed-term imprisonment of 15 years and more. The defendants Yargyal, Choephel Tashi, Dorje Dargye, Ngawang, Kalsang Tsering, Migmar, Sonam Tsering, Kelsang Samten, Tseten, Palsang Tashi, Lhagpa Tsering Chewa (Sr), Lobsang Tashi, Lhagpa Tsering, Darchen, Thubten Gyatso, Tashi Gyatso, Kalsang Dondrub, Tenzin Gyaltzen, Kalsang Nyima and Yeshe were given sentences of fixed-term imprisonment ranging from 3 to 14 years.

516. The court informed the accused that if they refused to accept these judgements they could file an appeal with the Lhasa Municipal Intermediate People's Court or with the Tibet Autonomous Region Supreme People's Court within 10 days of the date of service of the judgement.

517. China's Criminal Procedure Law stipulates that People's Courts may or should appoint a defence counsel in cases where the defendant has not appointed counsel, the case is of great social significance, the defendant is totally without financial resources or the court considers that the prosecution arguments and evidence submitted may affect the proper determination of the severity of the sentence. Accordingly, the Lhasa Municipal Intermediate People's Court appointed defence attorneys for the 30 defendants. The defence arguments presented by these lawyers were given full value during the trial

proceedings, and the mitigating circumstances that they cited in respect of the defendants, which were verified through investigation, were all accepted by the court.

518. China's Criminal Procedure Law stipulates that all citizens who are members of ethnic minorities have the right to use their own spoken and written language in an appeal. Of the 14 open hearings held in the Lhasa Municipal Intermediate People's Court, the proceedings were fully conducted in the Tibetan language in 9, while in the remaining 5 cases, the defendants were provided with Tibetan-Chinese interpretation.

519. It has been explained that the costs associated with the defence lawyers and interpreters provided for the defendants were entirely borne by the Tibet Autonomous Region Legal Aid Centre. On the day of the hearings, more than 300 Lhasa residents, students and monks representing all ethnic minorities and all groups within society attended the trials.

520. The judicial authorities of the Tibet Autonomous Region and other localities intend to continue their efforts to deal in accordance with the law with the criminal suspects who participated in these violent criminal acts.

521. China will continue to transmit to the relevant bodies information regarding the outcome of these negotiations.

### **Urgent appeal**

522. On 31 March 2008 the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Mr. **Yang Chunlin**, a farmers' representative and land-rights activist in Heilongjiang Province. Mr. Yang Chunlin was the subject of a letter of allegations sent by the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 22 February 2008, and an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders, on 5 September 2007, following his detention on 6 July and formal arrest on 13 August 2007. According to new information received at the time:

523. On 24 March 2008, Mr. Yang Chunlin was sentenced to five years' imprisonment and two years' deprivation of political rights for "inciting subversion of state power", following a trial which lasted approximately 20 minutes. The court police hit Mr. Yang Chunlin several times with electric batons when he attempted to speak with his family attending the sentencing hearing in Jiamusi City Intermediate People's Court, Heilongjiang Province.

524. While in detention, Mr. Yang Chunlin was subjected to torture and coerced to confess. The authorities denied Mr. Yang Chunlin access to his family and restricted access to his legal counsel. Mr Yang's conviction was related to his collecting more than 10,000 signatures endorsing the open letter, "We Want Human Rights, not the Olympics".

525. Concern was expressed for Mr. Yang Chunlin's physical and psychological integrity in detention. Further concern was expressed that his conviction may be directly related to his non-violent activities in defense of human rights, particularly his exercising of the right to freedom of expression.

### **Response from the Government**

526. At the time this report was finalized, the reply of the Government of 1 July 2008 had not been translated.

### **Urgent appeal**

527. On 9 April 2008 the then Special Representative, together with the Independent Expert on Minority Issues, Special Rapporteur on extrajudicial, summary or arbitrary executions, Special Rapporteur on freedom of religion or belief, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the question of torture, issued an urgent appeal to the Government concerning reports of **killings, injuries and arrests of protestors in Gan Zi Xian, Sichuan Province, and the arrests of over 570 Tibetan monks, including children, in Aba Xian and in Ruanggui/Zoige Xian the Tibetan Autonomous Region**. A communication with regard to reports of violence during demonstrations, killings of an unconfirmed number of people and arrests of hundreds of demonstrators in the Tibetan Autonomous Region and surrounding areas in China was issued by the Special Rapporteur on extrajudicial, summary or arbitrary executions, Special Rapporteur on freedom of religion or belief, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the question of torture and Special Representative of the Secretary-General on the situation of human rights defenders on 20 March 2008. According to new information received at the time:

528. On 3 April 2008, at least eight protestors were killed and several injured when security forces opened fire during a peaceful protest in Zithang Township in Gan Zi Xian, Sichuan Province, calling for the release of two monks previously arrested. Several protestors were also arrested.

529. On 28 and 29 March 2008, over 570 Tibetan monks, including some children, were arrested following raids by security forces of the Chinese People's Armed Police and the Public Security Bureau on monasteries in Aba Xian and in Ruanggui/Zoige Xian in the Tibetan Autonomous Region. Arrests were made of those suspected of participating in protests and those suspected of communicating with the exiled Tibetan communities.

530. Serious concerns were expressed over the aforementioned arrests and detention of, and the excessive use of force against, the above-mentioned persons, including reportedly peaceful protestors. Further concerns were expressed that independent observers and foreign journalists have been restricted from accessing regions in which protests have taken place and that limitations have been imposed on the media, including Internet websites, to prohibit the dissemination of information throughout China concerning the events in the Tibetan Autonomous Region and abroad.

### **Response from the Government**

531. Reference is made to the response of the Government to the communication of 20 March 2008, reflected above.

### **Urgent appeal**

532. On 14 April 2008, the then Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, sent an urgent appeal to the Government concerning Mr **Hu Jia**. Mr Hu Jia is a pro-democracy campaigner and HIV-AIDS activist. He is co-founder and former director of the Beijing Aizhixing Institute of Health Education and an outspoken advocate for those affected by HIV/AIDS. Mr Hu Jia was the subject of a joint urgent appeal sent by the Special Representative of the Secretary-General on the situation of human rights defenders, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture on 4 January 2008, following his detention on 27 December 2007. Mr Hu Jia was also subject of communications sent by mandate holders on 30 November 2007, 31 May 2007 and 2 June 2004. According to information received:

533. On 3 April 2008, Mr Hu Jia was sentenced to three years and six months' imprisonment and one year of political rights deprivation for "inciting subversion of state power" by the Beijing Municipal No. 1 Intermediate People's Court.

534. Mr Hu Jia was convicted on the basis of political articles he wrote for the internet, interviews he had given to the media, and his signing of the letter "The Real China Before the Olympics", which demands an end the pre-Olympics human rights abuses.

535. Mr Hu Jia was officially charged on 30 January 2008 by the Beijing Municipal Peoples Procurate, and he stood trial on 18 March 2008. Reports indicate that his lawyers were given only 20 minutes to deliver a defense during the four-hour session and were prevented from responding or interjecting throughout the proceedings. International observers and diplomats were barred from the courtroom during the trial, as were Mr Hu Jia's father and wife. Some of Mr Hu Jia's friends and colleagues were detained and

moved to locations outside Beijing, allegedly to prevent them from speaking to the media outside the courtroom.

536. Reports indicate that the Beijing Public Security Bureau (PSB) has refused to supply Mr Hu Jia with necessary medication in detention and to deliver him the medication brought by his relatives to the detention centre. Mr Hu Jia suffers from a liver disease and must take daily medication.

537. Concern was expressed that the alleged verdict of Mr Hu Jia may have been directly related to his human rights activities, particularly his exercising of the right to freedom of expression. Further concern was expressed for Mr Hu Jia's medical condition and psychological integrity while in detention.

### **Response from the Government**

538. At the time this report was finalized, the reply of the Government of 4 June 2008 had not been translated.

### **Urgent appeal**

539. On 24 April 2008 the then Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, Special Rapporteur on the question of torture and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government regarding Ms. **Zheng Mingfang**, a human rights defender and petitioner in Ji County, Tianjin. According to information received:

540. On 29 February 2008, the Tianjin police arrested Ms. Zheng Mingfang at her home. She had been held incommunicado since the arrest. Her family had not received any formal detention order and their requests to contact and meet with her had been repeatedly denied by the police. In addition, she had not been allowed to meet with a lawyer. According to unofficial sources, Ms. Zheng Mingfang had been sentenced to two years of reeducation through labor (RTL) and was being held at the Xian district centre in Tianjin, east of Beijing.

541. Ms. Zheng Mingfang's health had deteriorated and she had begun to lose her sight. Ms. Zheng Mingfang's husband's mobile phone and computer equipment were confiscated after her arrest. On 4 April 2008, the Tianjin police warned Ms. Zheng Mingfang's family not to communicate with foreigners. The husband was told that, if he did not comply, Ms. Zheng Mingfang would not be released. Her sister was ordered to turn off her mobile phone and keep away from journalists.

542. Shortly before her detention, Ms. Zheng Mingfang had campaigned and protested against the arrests of Ye Guozhu and Hu Jia. In particular, she had been collecting signatures to demand that authorities release Mr. Hu Jia.



543. Concerns were expressed that the arrest and detention of Ms. Zheng Mingfang might be solely connected to her peaceful activities in defending human rights and the exercise of her right to freedom of opinion and expression. In view of the reported incommunicado detention of Ms. Zheng Mingfang at an unknown place of detention, further concerns were expressed that she might be at risk of ill-treatment. Further concern was expressed at the restrictions on the exercise of the right to freedom of expression imposed on the family of Ms. Zheng Mingfang.

### **Response from the Government**

544. On 13 June 2008 the Government issued a response acknowledging receipt of the joint appeal from the Special Rapporteurs. The Chinese Government noted that it had made diligent inquiries into the matters raised therein, and responded as follows:

A. Zheng Mingfang, female, born on 5 July 1963, junior middle-school education, from Ji County in Tianjin City. On 1 March 2008, Zheng concocted a terrorist message, claiming that a man driving a vehicle supposedly filled with explosive was going to blow up a State gymnasium. Since the story she made up and spread caused a disturbance and seriously disrupted public order, the Tianjin public security authorities, acting in accordance with the relevant Chinese regulations on re-education through labour, applied re-education through labour to Zheng on 1 April 2008.

B. Re-education through labour in China is conducted on basis of the decision on the matter approved in 1957 by the Standing Committee of the National People's Congress and other such laws and regulations. It is not a criminal punishment but an administrative one. The people's government in every province, autonomous region, city reporting directly to the Government, and every large and medium-sized city in China has established a re-education through labour management committee, and re-education through labour activities are supervised by the people's procuratorates. Under the regulations, re-education through labour is applicable only to people aged 16 years and older who have disrupted the social order in large or medium-sized cities and refused to mend their ways, or who have committed petty offences not meriting a criminal penalty, and who meet the conditions laid down in the regulations. There is a strict legal procedure for ordering re-education through labour, and a statutory supervision system. Persons wishing to challenge a re-education order can appeal to the re-education through labour management committee or, under the terms of the Administrative Proceedings Act, to the people's courts. Apart from being required to comply with disciplinary measures under the re-education through labour regulations which restrict some of their rights, individuals subject to re-education retain the wide range of civil rights afforded to them by the Constitution and laws, including permission to see family members while undergoing re-education and freedom of correspondence, rest on holidays and so forth.

### **Urgent appeal**

545. On 7 May 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government regarding Ms. **Li Xige**, an HIV/AIDS activist, her

husband, and Ms. Miaojué Cizhi, a Buddhist nun and HIV/AIDS activist, both from the Henan Province. According to information received:

546. On 1 May 2008, local police entered the home of Ms. Li Xige, where she and Ms. Miaojué Cizhi were present, arrested them and took them away for questioning. On the evening of 30 April 2008, Ms. Miaojué Cizhi had been visiting Ms. Li Xige when local police had entered and demanded to check Ms. Li Xige's residence permit. The next morning, on 1<sup>st</sup> May 2008 at 3 a.m, the police returned, produced a summons and arrested Ms. Li Xige and Ms. Miaojué Cizhi. Ms. Li Xige is currently held at the Chengguan Township Public Security Bureau (PSB), Ningling County, Henan Province. Ms. Miaojué Cizhi's whereabouts are currently unknown.

547. Shortly before their detention, Ms. Li Xige and Ms. Miaojué Cizhi had publicly called for a hunger strike to protest against the recent imprisonment of Mr. Hu Jia, a fellow HIV/AIDS activist and human rights defender. In January 2008, Mr. Miaojué Cizhi had issued an open letter calling on the country's leaders to release Mr. Hu Jia.

548. Since August 2006, Ms. Li Xige has been under house arrest with periodic cessation, by the police from Ningling County. Ms. Li Xige's husband has recently also been put under house arrest by the police in order to stop him from contacting anyone about his wife's situation.

549. Concerns were expressed that the arrest and detention of Ms. Li Xige and Ms. Miaojué Cizhi might have been solely connected to their peaceful activities in defending human rights and in particular the exercise of their right to freedom of opinion and expression. Further concerns were expressed for their physical and psychological integrity while in detention. Concerns were also expressed at the reported restrictions on the exercise of the right to freedom of expression imposed on the husband of Ms. Li Xige.

### **Urgent appeal**

550. On 16 May 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government regarding Messrs **Chen Daojun, Xin Wu, Shi Jianhua** and **Lin Yong**, internet writers and human rights defenders. According to the information received:

551. On 9 May 2008, Messrs Chen Daojun, Xin Wu, Shi Jianhua and Lin Yong were detained for posting articles online criticizing the construction of a petrochemical plant in Chengdu, capital of Sichuan Province. Mr Chen Daojun was detained for "inciting subversion of state power". Messrs Xin Wu, Shi Jianhua and Lin Yong were placed under administrative detention.

552. On 10 May 2008 a police spokesperson stated at a press conference in Chengdu that the four internet writers were detained for posting articles that “created, spread and stirred up rumor” and for using the internet to spread harmful information. It was further maintained that they had incited the manifestation that took place in Chengdu on the 4 May 2008, where about 200 people had participated to protest against the construction of the chemical plant.

553. Concerns were expressed that the detention of Messrs Chen Daojun, Xin Wu, Shi Jianhua and Lin Yong might be solely connected to their peaceful activities in defending human rights and the exercise of their right to freedom of opinion and expression. Further concerns were expressed at this apparent emerging trend of repression against human rights defenders in China.

### **Urgent appeal**

554. On 16 May 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government regarding Mr. **Zhou Yuanzhi**, a writer and member of the Independent Chinese PEN Center, and his wife, Ms. Zhang Zhongfeng. According to the information received:

555. On 3 May 2008, Mr. Zhou Yuanzhi and Ms. Zhang Zhongfeng were arrested at their home and taken into custody by agents of the National Security Bureau of Zhongxiang City in Hubei Province. Mr. Zhou Yuanzhi was accused of “inciting subversion of state power” and is presently detained. Ms. Zhang Zhongfeng was put under house arrest and released on 5 May.

556. Mr. Zhou Yuanzhi, aged 47, has published two books in Hong Kong as well as several political commentaries, reportages and essays in overseas Chinese magazines and on websites. In 1992, after contributing an article to a foreign radio, he was dismissed from his post as a taxation official at the Zhongxiang City Taxation Bureau and expelled from the Communist Party.

557. Concern was expressed that Mr. Zhou Yuanzhi may have been detained in connection with his writings, and that the charges against him may be related to his activities in defense of human rights in the peaceful exercise of his right to freedom of opinion and expression, in particular his critique of social issues and investigation of corruption in China. Further concern was expressed for his physical and psychological integrity while in detention. Finally, concern was expressed that the arrest and detention of Ms. Zhang Zhongfeng may have been linked to the human rights activities of her husband.

### **Response from the Government**

558. At the time this report was finalized, the reply of the Government of 7 August 2008 had not been translated.

### **Letter of allegations**

559. On 23 May 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and as Special Rapporteur on violence against women its causes and consequences, issued a letter of allegations to the Government in relation to Ms. **Yuan Weijing**, wife of Mr. Chen Guangcheng, a well-known human rights lawyer who has denounced alleged violations linked to China's one-child policy, including forced sterilizations and abortions. According to information received, on 24 August 2006, after allegedly taking legal action against Linyi city authorities for their practice of forced abortions, Mr. Chen Guangcheng was sentenced to four years and three months imprisonment for "organising a mob to disrupt traffic." Ms. Yuan Weijing has been working together with her husband in gathering evidence in this case against the Linyi city authorities and has been publicly opposing his imprisonment. Mr. Chen Guangcheng was already the subject of six previous communications to the Government sent by the former Special Representative of the Secretary-General on the situation of human rights defenders and other mandate-holders on 27 June 2006, on 14 July 2006, on 7 April 2006, on 31 October 2005 and on 19 September 2005. Ms. Yuan Weijing and Mr. Chen Guangcheng were the subjects of a communication on 21 December 2006 sent by the former Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, and Special Rapporteur on violence against women, its causes and consequences. Receipt was acknowledged of replies from the Government dated 12 December 2005, 14 June 2006 and 3 October 2006 and 14 February 2007. According to the new information received:

560. On 14 May 2008, the Beijing Municipal Chaoyang District People's Court upheld an administrative ban against Ms. Yuan Weijing issued in August 2007 by the Beijing General Station of Exit and Entry Frontier Inspection. The ruling followed a lawsuit filed by Ms. Yuan Weijing to challenge the administrative decision. The court closed the hearing on grounds that the case involved State secrets. Ms. Yuan Weijing was reportedly unable to attend the hearing because she was confined to her home in the city of Linyi by local authorities.

561. The administrative decision barred Ms. Yuan Weijing from travelling to the Philippines to receive the 2007 Ramon Magsabay Award for Emergent Leadership on behalf of her husband in August 2007. On 24 August 2007, she was intercepted by police at Beijing International Airport, reportedly beaten, her passport was revoked, and forced to return to her home.

562. Ms. Yuan Weijing has reportedly been subject to repeated acts of harassment by the authorities following the arrest of her husband and she is kept under residential

surveillance by the police. Several times she has been brought in by police for questioning. According to the information received, she has not been allowed to visit her husband for eight months.

563. Concern was expressed that the reported harassments against Ms. Yuan Weijing and the decision of Beijing Municipal Chaoyang District People's Court to uphold the travel ban may aim to sanction Ms. Yuan Weijing and Mr. Chen Guangcheng because of their non-violent activities in defence of human rights.

### **Response from the Government**

564. At the time this report was finalized, the reply of the Government of 7 July 2008 had not been translated.

### **Urgent appeal**

565. On 6 June 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government regarding the situation of Ms **Ren Shangyan**, Assistant Director of the *China Justice Advocacy Web (Zhonghua Shenzheng Wang)*, a website which frequently has reported on cases related to alleged corruption and social justice. According to the information received:

566. On 16 May 2008, Ms Ren Shangyan was arrested by several Shuangyashan Public Security Bureau (SPSB) officers in Shuangyashan City, Heilongjiang Province. Her current whereabouts are unknown, and her family has not been informed by the police of her detention. The current conditions of her detention and whether she has formally been charged, remain unclear.

567. Shortly before her arrest, Ms Ren Shangyan had been investigating accusations against the Vice-Chief of the Anti-Corruption Bureau under the Procuratorate of Lingdong District, Shuangyashan City. In March 2008, shortly after the China Justice Advocacy Web initiated to investigate the case, the website was temporarily closed by the internet police. In 2007, the website was repeatedly blocked following various reports on corruption cases in Shanghai.

568. Concern was expressed that the arrest and detention of Ms Ren Shangyan may have been directly related to her reportedly peaceful human rights activities, particularly her advocacy of an end to corruption and social injustice. Further concern was expressed for her physical and psychological integrity while in detention. Finally, concern was expressed that the above mentioned allegations may form part of a pattern of harassment against human rights defenders in the country.

### **Urgent appeal**

569. On 6 June 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning reports received regarding **several nuns and monks from the Kardze County, Kardze "Tibet Autonomous Prefecture", the Sichuan Province in Tibet Autonomous Region, including three nuns from Dragkar nunnery; Ven. Sangye Lhamo, aged 26, from Kyakyatengtsang family of Dunga Village, Serchuteng Township, Ven. Tsewang Kando, aged 38, from Dunga Village, Serchuteng Township and Ven. Yeshi Lhadon, aged 24, from Tsozhi village, Mrs. Rigden Lhamo, student, aged 21, from Lhakey Village, Thingkha Township, four nuns from Nyimo Gaysey Nunnery in Lhopa Township, Tehor Kardze County; Bhumo Tengha; Rinchen Jamatsang, Jamgha Dolma and Pema, two nuns from the Dargay Hardu Nunnery in Kardze County; Ven. Jampa Lhamo, aged 30, from Sadul Village and Ven. Rinzin Wangdon, aged 23, from Lharinyan Village as well as twelve monks from the Dingri Shelkar Choedhe Monastery, Dingri County, Shigatse Prefecture, namely; Ven. Khenrab Tharchin, aged 32, Drushe Village, Shelkar Township, Ven. Tsewang Tenzin, Phelbar Village, Shelkar Township, Dingri County, Ven. Tenzin Gayphel, Lingshar Village, Gaymar Township, Dingri County, Ven. Khenrab Tashi, Mashak Village, Shelkar Township, Dingri County, Ven. Topgyal, Drushe Village, Shelkar Township, Dingri County, Ven. Tenzin Tsering, Bichu Village, Gyatso Township, Dingri County, Ven. Lobsang Jigme, Norgay nomadic area, Shelkar Township, Dingri County, Ven. Khenrab Nyima, Shelkar Township, Dingri County, Ven. Dhondup, Che Village, Tsakhor Township, Dingri County, Ven. Tenpa, Lolo Langga, Shelkar Township, Dingri County, Ven. Samten, Shollingshar, Shelkar Township, Dingri County, and Ven. Choedhen, Shollingshar, Shelkar Township, Dingri County.**

570. On 20 March 2008, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on freedom of religion or belief the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal to the Government concerning allegations of violence, killings and arrests of hundreds of demonstrators in the Tibet Autonomous Region and surrounding areas in China. On 9 April 2008 mandate holders issued an urgent appeal regarding reports of killings, injuries and arrests of protestors in Gan Zi Xian, Sichuan Province, and the arrests of over 570 Tibetan monks, including children, in Aba Xian and in Ruanggui/Zoige Xian the Tibetan Autonomous Region. Receipt of the Government's reply to these communications dated 21 May 2008 was acknowledged which at the time were in the process of being translated.

571. According to the new information received at the time, on 28 May 2008 at around 9am, following a reportedly peaceful protest in Kardze County main marked square, the three nuns Ven. Sangye Lhamo, Ven. Tsewang Kando and Ven. Yeshi Lhadon were arrested and detained by Kardze County Public Security Bureau officials. The nuns had been calling for the immediate release of political prisoners in the Tibet Autonomous

Region, expressed their support to the Dalai Lama and called for the independence of Tibet.

572. On the same day, the student Mrs. Rigden Lhamo was arrested by the county Public Security Bureau officials after having initiated a reportedly peaceful protest at the headquarters of the Kardze County Government by unfurling the Tibetan flag and calling for a free Tibet. The security forces allegedly opened fire towards Mrs. Rigden Lhamo. There is however no confirmed information on whether Mrs. Rigden Lhamo was injured as a result of the reported shooting.

573. On 22 May 2008, the four nuns Bhumo Tengha (from Lunang Village), Rinchen Jamatsang, Jamgha Dolma and Pema of Nyimo Gaysey Nunnery in Lhopa Township, Tehor Kardze County, were beaten with batons, kicked and punched by officers from the local Public Security Bureau before they were arrested. It appears that this took place after the nuns had carried out a reportedly peaceful protest at the Kardze County government headquarters, whereby the nuns had protested against the recent reported crackdown on peaceful Tibetan protesters and the detention of Tibetans in Chinese prisons. The nuns had also distributed leaflets calling for the independence of Tibet.

574. On 19 May 2008, during a reported night raid by Chinese people's Armed police (PAP) forces and Public Security Bureau (PSB) officials, twelve monks from the Dingri Shelkar Choedhe Monastery, Dingri County, Shigatse Prefecture were arrested, reportedly for opposing the "Patriotic re-education" campaign. Upon request to the Public Security Bureau of the whereabouts of their family members, the monks families were apparently questioned about their source of information and told that their attitude could damage the image of the government.

575. According to the information received, the abovementioned persons were still being detained incommunicado at undisclosed places, without charge or access to lawyers and families.

576. Concerns were expressed that the arrest and detention of the aforementioned individuals may be solely connected to their reportedly peaceful protests and defense of human rights and their exercise of freedom of expression and freedom of assembly. In view of the reported incommunicado detention at undisclosed places of the aforementioned individuals, further concerns were expressed as regards their physical and mental integrity.

### **Letter of allegations**

577. On 16 June 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and as Special Rapporteur on the question of torture, issued an allegation letter to the Government in relation to Ms Liu Jia, a human rights defender and democracy activist. Ms Liu Jia was the subject of urgent appeals sent by the then Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur

on the promotion and protection of the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 25 October 2007, and by these mandate-holders, together with the Special Rapporteur on the question of torture, on 28 December 2007.

578. Prior to her arrest on 11 October 2007, Ms Liu Jia had been coordinating the presentation of a public letter, signed by over 12,000 petitioners, calling on Chinese Communist Party leaders to enact political and legal reforms. She was subsequently ordered to be detained at a Re-education through Labour (RTL) camp for 18 months on charges of "disturbing social order." There are also concerns for Ms Liu Jia's health, particularly her vision, addressed in the aforementioned communications and in the Government's response of 6 March 2008.

579. According to new information received at the time, on 22 May 2008, Ms Liu Jia was transferred from Qiqihar RTL camp to Harbin Drug Rehabilitation Center. At the Center, Ms Liu Jia was forced to sit on a "Tiger Bench", for five consecutive days. This involves the person being forced to sit upright on a long bench, with her hands tied behind the back. The thighs are fastened with a rope to the bench while the feet are raised off the floor by bricks placed under the feet, placing extreme strain on the knees and causing pain. This practice aims at instilling discipline among those detained.

580. Concern was expressed that the ongoing detention of Ms Liu Jia may be directly related to her activities in defense of human rights, particularly her exercise of the right to freedom of expression. In view of the above allegations of ill-treatment, serious concern was reiterated for Ms Liu Jia's physical and mental integrity while in detention.

### **Urgent appeal**

581. On 30 June 2008, Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government regarding Mr **Yao Lifa**, an activist promoting local democratic elections in Hubei Province. According to information received:

582. On 26 June 2008, Mr Yao Lifa participated in a demonstration against alleged police brutality which was held outside the government building in Qingjiang City. Mr Yao Lifa disappeared during the demonstration, at which local and National Security police were present. At 7 p.m. on the same evening, Yao called his family and told them that he had been abducted and brought to Gaoshibei Township, 50 kilometers from Qingjiang City. At 11 p.m., Yao's family received another call from him, informing them that he was at Zhongxiang Township, about 100 km from Qingjiang City. It is feared that he has been detained by Hubei police and his current whereabouts are unknown.

583. Mr Yao Lifa was an elected member of the People's Congress of Qingjiang City from 1999 to 2004. He subsequently published a book outlining the challenges to independent politicians, which was banned. He has reportedly been subject to intimidation and harassment by police after running as an independent candidate in 2006.



In September 2007, Yao Lifa was vocal in demanding the removal of the Secretary of the Chinese Communist Party in Hubei Province. Reports indicate that following this, in October 2007, he was secretly detained for a month at Qianjiang City Xiongkou Farmers Liaison Office.

584. Concern was expressed that the disappearance of Mr Yao Lifa may have been directly related to his activities in defense of human rights, in particular through his exercise of the right to freedom of expression and freedom of assembly. In view of reports of his detention in October 2007, serious concern was expressed for his physical and psychological integrity.

### **Response from the Government**

585. At the time this report was finalized, the reply of the Government of 30 September 2008 had not been translated.

### **Letter of allegations**

586. On 15 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government regarding human rights lawyers Messrs **Li Baiguang, Jiang Tianyong, Teng Biao, Li Heping, Li Xiongbing, Li Fangping and Zhang Xhigshui**. Messrs Li Baiguang, Teng Biao and Li Heping were presented with the Democracy Award by the United States of America foundation for Democracy in June 2008.

587. Communications have previously been sent to your government regarding some of these defenders. The most recent one concerning Mr Teng Biao and Mr Jiang Tianyong was sent on 25 June 2008. Mandate-holders reported information on the situation of Mr Li Baiguang with a letter sent on 1 December 2006 to which your Excellency's Government responded on 26 February 2007. The most recent communication concerning Mr Li Heping was sent on 13 March 2008. We acknowledge receipt of the response of the Government on 24 April 2008. Regarding Mr. Li Fangping, the most recent communication was sent on 22 January 2008, to which no response has been received to date.

588. According to information received, on 29 June 2008, Beijing-based human rights lawyers Li Baiguang, Jiang Tianyong and Teng Biao were prohibited by security forces from attending a dinner with members of the United States of America Congress. Mr Li Baiguang was kept under surveillance by four policemen at a holiday resort in the suburbs of Beijing and was not allowed to return to the city for three days. Mr Teng Biao was taken to the suburbs before being placed under house arrest. Mr Jiang Tianyong was stopped from leaving his apartment block by two policemen from Beijing PSB Haidian sub-division until after the dinner had finished. Human rights lawyers Li Heping, Li Xiongbing, Li Fangping and Zhang Xingshui also failed to attend the dinner after pressure was put on them to stop them from going. The measures taken against all of the

human rights lawyers were lifted after the departure of the members of the United States of America Congress.

589. After traveling to the United States of America to collect the Democracy Award from the United States of America National Endowment for Democracy (NED) on 17 June 2008, Messrs Li Baiguang and Li Heping were questioned and intimidated by police. Mr Teng Biao was not allowed to travel to accept the award given that his passport had been confiscated.

590. Concern was expressed that the prohibition of Messrs Li Baiguang, Jiang Tianyong, Teng Biaou, Li Heping, Li Xiongbing, Li Fangping and Zhang Xhigshui from attending a dinner with members of the United States of America Congress may be directly related to their activities in defense of human rights, in particular through their legal action against alleged human rights violations in China. Further concern was expressed for the physical and psychological integrity of the human rights lawyers in question.

### **Response from the Government**

591. At the time this report was finalized, the reply of the Government of 3 September 2008 had not been translated.

### **Urgent appeal**

592. On 17 July 2008, the Special Rapporteur, together with the Special Rapporteur on the question of torture and the Special Rapporteur against violence against women, sent an urgent appeal to the Government regarding Ms **Mao Hengfeng**, a reproductive rights and housing rights activist who has petitioned against family planning policies and forced evictions since 1989. She has been the subject of six communications from various mandate-holders, most recently on 5 November 2007. We acknowledge receipt of the response from your Government on 15 January 2008.

593. According to information received, on 3 June 2008, Ms Mao Hengfeng was taken to a prison hospital against her will. She was stripped naked by twelve female prisoners chosen by prison authorities, tied to a bed and left there until she was returned to Shanghai Women's Prison on 16 June 2008. She was injected with twelve kinds of unknown medication which reportedly gave her headaches and burning pains. Blood was extracted from her against her will. In her struggle to stop this from happening she lost a large amount of blood. Despite temperatures being very high she was covered with a blanket and her mouth and nose were at times covered with clothes to stop her from breathing. She was beaten and had her breast, mouth and genitals pinched by prisoners and guards. During her time in the prison hospital she was not allowed to wash. After she returned to Shanghai Women's Prison, a shutter was put up on the only window in her cell to block out light.

594. Concern was expressed that the arrest and ill-treatment whilst in detention of Ms Mao Hengfeng might be directly related to her peaceful work in defense of human rights in China, and might form part of an ongoing campaign against human rights defenders in the country. Further concern was expressed for the physical and psychological integrity of Ms Mao whilst in detention.

### **Response from the Government**

595. At the time this report was finalized, the reply of the Government of 2 September 2008 had not been translated.

### **Urgent appeal**

596. On 28 July 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the question of torture, sent an urgent appeal to the Government regarding Mr. **Ye Guozhu**. It was noted that Mr. Ye had already been the subject of a joint communication sent by the then Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders on 5 April 2005.

597. According to new information received at the time, on 22 July 2008, Mr. Ye Guozhu was taken away from Chaobai Prison in Tianjin by officers of the Beijing Public Security Bureau (PSB), Xuanwu Sub-division, where he has been serving a prison sentence that was due to come to an end on 26 July 2008.

598. His brother received a call from the prison authorities at around 4 pm on 22 July, explaining that it would not be necessary for him to come and pick up his brother on 26 July. Mr. Ye's brother immediately called the police in Xuanwu, who initially denied any knowledge of Mr. Ye Guozhu's whereabouts, however, later admitted that Mr. Ye had been transferred from Chaobai Prison. The authorities refused to disclose Mr. Ye's place and envisaged duration of detention.

599. Mr. Ye Guozhu was active in assisting petitioners to file complaints with the central government against forced evictions. After he had applied for permission, in August 2004, to organise the so called "September 18 10,000 People March" he was sentenced by the Beijing Intermediate People's Court to four years in prison for "disturbing the social order". He was reportedly ill-treated while in detention.

600. In view of his reported incommunicado detention at an undisclosed place of detention grave concerns were expressed as regards Mr. Ye Guozhu's physical and psychological integrity. Further concern was expressed that Mr. Ye's continued detention beyond the reported release date might be solely connected to his previous activities in defence of human rights and the upcoming Olympic Games.

### **Response from the Government**

601. At the time this report was finalized, the reply of the Government of 17 November 2008 had not been translated.

### **Urgent appeal**

602. On 29 July 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government regarding Mr. **Xie Changfa**, a human rights defender from Changsa, Hunan Province, and Mr. Lü Honglai, a human rights defender from Tianjin.

603. According to the information received, Mr. Xie Changfa was arrested and detained on 25 June 2008 by the Yuhua branch office of the Changsa Public Security Bureau (PSB). The ground for his detention was “suspicion of subverting state power”. According to unconfirmed reports, Mr. Xie Changfa might be currently detained at the detention centre in Changsa City.

604. Mr. Lü Honglai was arrested and detained on 9 July 2008. The wife of Mr. Lü Honglai was informed by the Tianjin Municipal State Security Bureau that her husband was under investigation. The current place of detention of Mr. Lü Honglai is unknown. When his wife inquired about his whereabouts, authorities refused to provide information.

605. Mr. Xie Changfa was formerly a cadre at the Changsha steel factory and the Changsha city government, and also served as a township head in Liuyang County. He was arrested several times before and served two years’ “re-education through labour” for his 1989 activities in support of democracy.

606. Mr. Lü Honglai served a four-year prison term beginning in 1981 for his editorship of a magazine during the so-called “Democracy Wall period” between 1979 and 1981.

607. In view of the undisclosed place of detention, grave concern was expressed as regards the physical and psychological integrity of Mr. Xie Changfa and Mr. Lü Honglai. Further concern was expressed that the detention of Mr. Xie Changfa and Mr. Lü Honglai may be related to their previous activities in defence of human rights and the upcoming Olympic Games.

### **Response from the Government**

608. At the time this report was finalized, the reply of the Government of 30 September 2008 had not been translated.

### **Urgent appeal**

609. On 30 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government regarding Ms. **Ni Yulan**, a housing rights activist and lawyer. Ms. Ni Yulan has been active for several years in assisting victims of forced evictions in Beijing. Ms. Ni Yulan was previously sentenced to one year of imprisonment for “obstructing official business” after she had sought redress for being beaten by Beijing police on 27 September 2002 while she was trying to film the forced demolition of a Beijing home. Those beating left her disabled and in need of crutches for walking

610. According to the information received, on 15 April 2008, demolition workers and policemen knocked down a wall of Ms. Ni Yulan’s home, following which Ms. Ni Yulan allegedly hit one member of the demolition crew. She was then detained for a short while on 15 April 2008 and re-arrested by the Xicheng District sub-division of the Beijing Security Bureau on 29 April 2008 on charges of “obstructing official business”. While in custody at the Xinjekou Police Station, she was reportedly beaten and mistreated, which resulted in her losing consciousness for two days. Also, her crutches had been taken away from her, and she was forced by the police to crawl when she needed to use the bathroom.

611. In view of the reported ill-treatment grave concerns were expressed as regards Ms. Ni Yulan’s physical and psychological integrity. Further concern was expressed that Ms. Ni Yulan’s arrest and detention might be solely connected to her previous activities in defence of human rights and the upcoming Olympic Games.

### **Urgent appeal**

612. On 20 August 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government regarding the case of Mr **Duan Jun**, a prominent national advocate of AIDS treatment access, founder of AIDS Care Home, an organization in Henan province reportedly providing support to children affected by AIDS. Mr Duan Jun is also a representative of the Country Coordinating Mechanism of the Global Fund to Combat AIDS, Tuberculosis and Malaria. Finally, Mr Duan Jun has been awarded a summer fellowship at AIDS Concern by the non-governmental organization Asia Catalyst. The purpose of the fellowship is to build non-profit leaders’ management skills at larger and more established organizations.

613. According to the information received, on 16 August 2008, Mr Duan Jun travelled from Hong Kong where he was attending a summer fellowship at AIDS Concern, to Shenzhen to renew his travel permit. Mr Duan Jun was expected to return to Hong Kong on 18 August in the afternoon. After his failing to return, the colleagues of Mr Duan Jun called him on his mobile phone to enquire about his whereabouts. He told them first that

he had been stopped at customs. He later called them again to inform them that he was being held at an undisclosed location.

614. Concern was expressed that the reported arrest and detention of Mr Duan Jun may be linked to his non-violent activities in defense of human rights, in particular his AIDS advocacy work.

### **Urgent appeal**

615. On 21 August 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government regarding Ms **Zhang Wei**, Ms **Wu Dianyuan**, aged 77, Ms **Wang Xiuying**, aged 79, and Mr **Ji Sizun**, aged 58, a legal activist from Fujian Province.

616. According to information received, in the morning of 11 August 2008, Mr Ji Sizun was arrested at the Deshengmenwai police station in Beijing's Xicheng District. He had called at the police station to check the status of an application he had made for a permit to hold a protest in one of the city's three designated 'protest zones' during the 2008 Olympic Games. At approximately 12.15 p.m. Mr Ji Sizun was escorted from the police station by several plain clothed policemen, into a dark coloured unmarked vehicle. Reports claim that Mr Ji Sizun managed to make a short call to his family to notify them that he had "problems". His whereabouts are currently unknown and his family has been unable to reach him on his mobile phone. Mr Ji Sizun had purportedly noted in his application that the proposed protest would call for greater participation of Chinese citizens in political processes, and would denounce alleged official corruption.

617. On 5 August 2008, Ms Wu Dianyuan and Ms Wang Xiuying were detained at the Beijing Municipal Public Security Bureau (PSB), Security Administration Unit, where they were interrogated for a period of ten hours.

618. Prior to their detention Ms Wu Dianyuan and Ms Wang Xiuying had visited the PSB Security Administration Unit, on five occasions between 5 August and 18 August, to apply for permits to demonstrate in one of the aforementioned 'protest zones'. The two women, who used to be neighbours, applied to demonstrate against the alleged forced eviction from their homes in 2001. Their applications were neither granted nor denied on each of their five visits to the Security Administration Unit.

619. On 17 August 2008, Ms Wu Dianyuan and Ms Wang Xiuying received a "Reeducation-Through-Labor" (RTL) decision, dated 30 July 2008, from the RTL Commission of the Beijing Municipal Government. The decision requires Ms Wu Dianyuan and Ms Wang Xiuying to serve one year of RTL for "disturbing public order". The decision states that the term will be served outside the RTL camp however, it places restrictions on movement and stipulates that if provisions of the decision or other regulations are violated, they will be sent to the RTL camp.

620. Furthermore, in late July 2008, Ms Zhang Wei was arrested at Beijing's Haidian district police station after police officers reportedly refused to accept an application she had made to protest over the demolition of her home for Olympics-related development. On 12 August 2008, Ms Zhang Wei was sentenced by the District Court to a month in prison for "disturbing social order". The sentence is related to a small protest that Ms Zhang participated in at the end of July, along with approximately 20 of her former neighbours, in Beijing's Qianmen district.

621. On 23 July 2008, the Security Director for the Beijing Organizing Committee for the Olympic Games (BOCOG) announced the creation of three protest zones in Beijing parks during the Olympic Games. According to reports, applicants must give formal notification of a proposed protest at least five days in advance. The application must be given police approval if it is to be permitted. Only citizens from Beijing are reportedly allowed to apply for a permit, and protests which are deemed to harm "national unity" and "national, social or collective interests" are legally forbidden. Reports claim that to date, none of the 77 applications to conduct protests in the three designated protest areas have been granted.

622. Concern was expressed that aforementioned events may represent a direct attempt to prevent public protests in China in the areas designated for this purpose during the Olympic Games, thus stifling freedom of expression in the country.

### **Response from the Government**

623. At the time this report was finalized, the reply of the Government of 30 September 2008 had not been translated.

### **Urgent appeal**

624. On 27 August 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on torture, sent an urgent appeal to the Government regarding the case of Mrs **Liu Jie**, veteran rural campaigner advocating the rights to complain and to seek justice. Mrs Liu Jie was the subject of a joint urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders on 25 October 2007, and of a joint urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the then Special Representative of the Secretary-General on the situation of human rights defenders on 28 December 2007.

625. According to new information received at the time, on 15 August 2008, Mrs Liu Jie, whose health is still very poor, was reportedly assaulted by a guard at the Harbin

Drug Rehabilitation Centre (i.e. RTL camp) where she is currently detained, when she argued with him about the alleged mistreatment of a fellow detainee. During the assault, Mrs Liu Jie shoved the guard forward in an act of self-defence. She was then accused of attacking the staff of the RTL camp and, as punishment, was forced to sit on a “tiger bench”. The practice consists of forcing the victim to sit upright on a long bench, with her hands tied behind her back; her thighs are fastened with a rope to the bench while her feet are raised off the floor by bricks placed under her feet. Extreme strain is put on the knees of the victim. Such practice, which amounts to torture, causes great pain.

626. On 22 May 2008, Mrs Liu Jie was reportedly forced to sit on a “tiger bench” for seven consecutive days because she protested against the harsh working conditions in Qiqihar RTL camp.

627. Serious concern was reiterated for the health and physical integrity of Mrs Liu Jie. As stated in the aforementioned joint urgent appeal of 28 December 2007. It was noted that Mrs Liu Jie suffers from a severe eye illness which may cause blindness. It was further noted that in the response of the Government of 6 March 2008, it was mentioned that the doctor who examined Mrs Liu Jie on 20 December 2007 “did not on any account say that, if she did not receive urgent treatment, she could lose the vision in her eye or that Heilongjiang province did not have adequate facilities to treat Liu’s eye injury and that she must be sent to Beijing for treatment, and other such allegations”. Furthermore it was noted that the Government response indicated that “[i]n mid-January 2008, Liu’s husband came to the labour re education facility to demand that Liu be allowed to see a doctor outside the facility immediately. As Liu herself was not cooperating in having examinations, it was impossible to determine whether or not, in accordance with the stipulations of the law, her medical condition warranted her being allowed to leave the facility for medical treatment”. While the Rapporteurs thanked the Government for its response, it noted that it did not dispel entirely the serious concern for the integrity of Mrs Liu Jie’s health while in detention. Indeed, in addition to her severe eye illness, she reportedly suffers from heart disease and cholecystitis (an inflammation of the gallbladder wall and nearby abdominal lining), and she is forced to work fourteen hours a day, six days a week at the RTL camp.

### **Response from the Government**

628. At the time this report was finalized, the reply of the Government of 17 November 2008 had not been translated.

### **Urgent appeal**

629. On 28 August 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government regarding Ms **Wang Xiaqiao**, a petitioner and HIV/AIDS, activist since 2003 following the infection of her husband with HIV/AIDS when he was transfused at the No.2 People’s Hospital at Xincai County in 1996. Prior to



petitioning, Ms Wang Xiaqiao exhausted all legal means to obtain compensation for her husband.

630. According to the information received, on 27 November 2007, Ms Wang Xiaqiao was reportedly arrested on charges of “extortion” while petitioning the provincial Government in Zhengzhou.

631. On 12 June 2008, the trial of Ms Wang Xiaqiao opened. Due to insufficient evidence, her case was sent twice from the Procurator back to the Public Security Bureau for further investigation.

632. On 12 August 2008, Ms Wang Xiaqiao was sentenced by the Xincai County Court to one year’s imprisonment for “extortion”. She has appealed the decision, and is currently detained at the Xincai County Detention Centre. It is reported that the lawyers of Ms Wang Xiaqiao have been intimidated not to publicize the case.

633. Concern was expressed that the arrest, detention and sentencing of Ms Wang Xiaqiao may be linked to her non-violent activities in defense of human rights, i.e. her HIV/AIDS advocacy work.

### **Urgent appeal**

634. On 1 September 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government regarding the situation of Ms **Wang Guilan**, a human rights activist from Enshi City, Hubei Province. Ms Wang Guilan was the subject of an urgent appeal sent by the former Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the then Special Representative of the Secretary-General on the situation of human rights defenders on 6 March 2008. Receipt was acknowledged of the response from the Government on 28 April 2008.

635. According to new information received at the time, on 29 July 2008, Ms Wang Guilan was criminally detained on suspicion of “disturbing social order” after she had allegedly given a phone interview to a foreign journalist. She is currently being held at the Enshi City Detention Centre.

636. On 28 August, Chinese authorities decided to send Ms Wang Guilan to a “Re-education through Labour” (RTL) camp for fifteen months, without trial or having been presented to a judge.

637. Prior to her arrest, Ms Wang Guilan had been held incommunicado at an unknown location since 17 April, reportedly to prevent her from “making trouble”.

638. Concern was expressed that the arrest and detention of Ms Wang Guilan and her subsequent transfer to a RTL camp may be linked to her non-violent activities in defense

of human rights, in particular in the exercise of her right to freedom of opinion and expression. Further concern was expressed for her physical and psychological integrity while in detention.

### **Response from the Government**

639. At the time this report was finalized, the reply of the Government of 17 November 2008 had not been translated.

### **Letter of allegations**

640. On 4 September 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government in relation to Ms **Amanda McKeown**, a British charity worker, along with US nationals Mr **James Powderly**, an artist and graphic designer, Mr **Brian Conley**, an independent video journalist, and bloggers Mr **Jeffrey Rae**, Mr **Michael Liss**, Mr **Jeffrey Goldin** and Mr **Tom Grant**. All are members of the New York based *Students for a Free Tibet*, an organisation which was founded in 1994.

641. According to information received, on 19 August 2008, Mr James Powderly, Mr Brian Conley, Mr Jeffrey Rae, Mr Michael Liss, Mr Jeffrey Goldin, and Mr Tom Grant were arrested by police officers and sentenced to 10 days of administrative detention at Dongcheng police station in Beijing. The group had travelled to Beijing to document a pro-Tibet protest during the Olympic Games. According to a statement issued by Public Security Bureau officials in Beijing the six men had been “apprehended for upsetting public order.” All were released from detention on 24 August and deported by Chinese authorities on a China Air flight to the United States.

642. On the night of 20 August 2008, Ms Amanda Mc Keown was arrested by police officers outside the National Stadium in Beijing. She had been photographing three fellow *Students for a Free Tibet* activists, as they attempted to unfurl a Free Tibet banner. Reports claim that Ms Mc Keown was taken by car to a University where she was deprived of sleep and interrogated during two sessions, lasting four and seven hours, respectively before being moved to a detention centre in the capital. During the interrogation sessions Ms Mc Keown, along with other activists who had been arrested, was reportedly locked into high-backed metal chairs with bars across their laps while interrogators shone bright lights in their faces. Ms Mc Keown was sentenced to 10 days of administrative detention. However, she was released after three days and deported to the United Kingdom on 24 August.

643. Concern was expressed that the aforementioned events may have represented a direct attempt to prevent freedom of assembly in China during the Olympic Games, thus stifling freedom of expression in the country.

### **Response from the Government**

644. At the time this report was finalized, the reply of the Government of 3 November 2008 had not been translated.

### **Urgent appeal**

645. On 1 October 2008, the Special Rapporteur, together with the the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal was sent by on the situation of human rights defenders and regarding Messrs. **Liu Xueli** and **Li Jincheng**. Mr. Liu Xueli is a petitioner for the defense of land rights in Henan Province. In 2004 he was reportedly sent to a re-education through labor camp for one year on charges of “disturbing social order” after petitioning for years in protest against the forceful appropriation of land by the local government in Bopo Village, Henan Province. Mr. Li Jincheng is a petitioner from Xinjiang Province.

646. According to the information received, in early August 2008, Messrs. Liu Xueli and Li Jincheng applied for the right to protest at the official “Protest Zones”. They were informed that their application had been successful and that, in nine days, they could come back to collect a written permit. However, Mr. Liu Xueli was placed under residential surveillance after making the application. On 6 August 2008, he was arrested by Beijing police while he was sleeping. He was then forcibly returned to his home town. He was told in late August that his case would be dealt with in October and that he might face more serious punishment then. Meanwhile, on 8 August 2008, Mr. Li Jincheng disappeared near the Bird’s Nest Stadium in Beijing. Since then it has not been possible to contact him.

647. On 23 September 2008, Mr. Liu Xueli was sent to a reeducation through labor camp. At approximately 2.45 p.m., he was forced into a car by police from Song County Public Security Bureau. Hours later he was told that he was going to be sent to a reeducation through labor camp although he was not given a written order and was not told why or for how long he was being sent there.

648. Concern was expressed that the disappearance of Mr. Li Jincheng and the fact that Mr. Liu Xueli was sent to a reeducation through labor camp may be related to their activities in petitioning to defend land rights. Further concern was expressed for the physical and psychological integrity of Mr. Liu Xueli and Mr. Li Jincheng.

### **Urgent appeal**

649. On 16 October 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent action to the Government concerning Mr **Washu Rangjung**, a writer, singer and news presenter for a local television company based in Sertha county, in the Tibet Autonomous Region (TAR).

650. According to information received, on 11 September 2008, around midnight, Mr Washu Rangjung was arrested at his home in Amdo Golok, in the eastern county of Sertha by Chinese military police officers. Mr Rangjung was allegedly taken to an undisclosed location and his whereabouts are currently unknown. Mr Rangjung's family has not been informed of the reason for his arrest however it is believed that it may be linked to views he expressed in relation to Tibetan culture on his weblog (<http://www.tibetabc.cn/user1/lcjk/index.html> ). Mr Rangjung has also published two books on Tibetan history and culture.

651. Concern was expressed that the aforementioned events may represent a direct attempt to prevent independent reporting in China, thus stifling freedom of expression in the country.

### **Urgent appeal**

652. On 20 October 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the Special Rapporteur on the right to food, sent an urgent appeal to the Government regarding alleged **threats against voluntary lawyers involved in a campaign initiated by Mr. Li Fangping**, a human rights lawyer in Beijing. The campaign aimed to bring about justice for the children victim of milk contamination following more than 50,000 cases of kidney infections reportedly caused by drinking milk mixed with melanin. At least 22 Chinese companies were allegedly responsible for the contamination.

653. Communications regarding Mr. Li Fangping were sent by various mandate holders on 7 April 2006, 21 December 2006, 5 January 2007, 22 January 2008, and 15 July 2008. Responses from the Government were received on 14 June 2006, 14 February 2007, 3 September 2008 and 10 September 2008.

654. According to information received, as of 24 September, more than 100 lawyers from 22 provinces had signed up to offer voluntary legal aid to the victims of contaminated milk powder products. On 28 September 2008, many of those lawyers had dropped out of the group because of pressure from officials. The lawyers were reportedly told that "they would face serious repercussions if they stayed involved" in the campaign.

655. Concern was expressed that the threats against the voluntary lawyers involved in the campaign organized by Mr. Li Fangping may have be related to their legitimate activities to seek justice for the victims of contaminated milk. Serious concern was expressed for the physical and psychological integrity of the lawyers involved in this campaign. Fear was expressed that, because of the pressure faced by the lawyers in question, they may no longer have felt able to continue with their campaign.

### **Letter of allegations**

656. On 7 November 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning **Cheng Hai** and **Li Subin**, members of the Beijing Yitong Law Firm, and Tang Jitian, previous member of the Beijing Haodong Law Firm.

657. According to the information received, Cheng Hai, Li Subin and Tang Jitian were among 35 lawyers who signed and published an appeal on the internet on 26 August 2008 calling for direct elections of the chairperson and the board of directors of the Beijing Lawyers Association, which operates under the control of the Bureau of Justice. Subsequently, the lawyers used text messages, letters and other means to disseminate their appeal to all Beijing lawyers and called upon them to demand their rights and actively participate in the upcoming elections for representatives to the Lawyers Association. The Association issued a reply to the appeal on its website on 5 September 2008. This appeal allegedly states that the use of text messages, the internet or other media to privately promote and disseminate the concept of direct elections and to express controversial opinions related to the Association is illegal.

658. On 30 October 2008, officials of the Haidian District Bureau of Justice came to the Yitong Law Firm, which has dealt with several rights defense cases in the past. The officials took photographs and questioned members of the law firm about cases the firm has handled. Following this visit, the director of the law firm expressed concern as he felt strong pressure from the authorities to stop taking on such cases and employing individuals supporting the direct election of the Lawyers Association.

659. In early September, Tang Jitian was asked by his superiors to leave his post in order not to put the future of the firm in peril. On 24 September 2008, Tang had filed a complaint with the Xicheng District Court against the Beijing Lawyers Association, stating that the written statement by the Association violated domestic law and international treaties signed by the Chinese Government. This complaint has allegedly not yet been registered. In mid-October, the Haodong Law Firm terminated Tang's employment, reportedly under pressure of the authorities.

660. Information has also been received that many lawyers who have signed the appeal have been summoned by the district bureaus of justice to report on their motivation to participate in the appeal. Several directors of law firms have also been informed by the bureaus of justice that in case the concerned lawyers refused to withdraw their signatures, their firms would risk difficulties in the annual licensing procedure.

### **Urgent appeal**

661. On 24 November 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and

expression, sent an urgent appeal to the Government regarding the situation of Mr **Chen Daojun**, a freelance writer and cyber activist based in Sichuan. Mr Chen Daojun, together with Messrs Xin Wu, Shi Jianhua and Lin Yong, were the subject of an urgent appeal sent on 16 May 2008 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the previous Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders. A response of the Government of Your Excellency has not yet been received.

662. According to new information received, on 21 November 2008, the Chendu Intermediate People's Court in Sichuan convicted Mr Chen Daojun of "inciting subversion of state power" (after having been initially charged with "inciting secession"), and sentenced him to three years of imprisonment and deprivation of political rights. This was reportedly in response to internet articles written by Mr Chen Daojun, in which he supported the protests held in March 2008 in Tibet. During the trial, Mr Chen Daojun pleaded 'innocent', and he may appeal the decision.

663. Concern was expressed that the sentencing of Mr Chen Daojun may be linked to his non-violent activities in defence of human rights. Further concern is expressed for Mr Chen Daojun's physical and mental integrity while in detention.

### **Observations**

664. The Special Rapporteur thanks the Government of China for responding to most of her 42 communications which indicates the Government's continuous willingness to cooperate with the mandate. She looks forward to receiving the remaining responses. She regrets that at time of finalizing the report, a number of replies are being translated.

665. However, the Special Rapporteur regrets that the Government has consistently challenged the alleged facts in every communication, and concluded there is no connection between the criminal charges imposed on the alleged victims because of their human rights activities. The Special Rapporteur remains concerned about persistent challenges faced by human rights defenders in China, including human rights lawyers, journalists, petitioners, housing and land rights activists protesting against forced evictions and seizures, environmental activists, defenders of the rights of the Uighur and Tibetan communities, HIV/AIDS activists and labour rights activists. The Special Rapporteur expresses grave concern that defenders are not able to freely conduct their work, disseminate information, assemble peacefully, present a petition, criticize the Government publicly or conduct other non-violent activities without the likelihood of attracting criminal charges. The Special Rapporteur urges the Government to create a safe environment conducive to the work of human rights defenders.

666. The Special Rapporteur hopes that the Government of China will respond favourably to her request of November 2008 to visit the country in order to strengthen the dialogue with the authorities.

## Colombia

### Carta de alegaciones

667. El 28 de diciembre de 2007, la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y el Relator Especial sobre el derecho a la alimentación, señaló a la atención urgente del Gobierno la información recibida en relación con las consecuencias del conflicto armado sobre el **pueblo indígena awá de los Municipios de Tumaco y Ricaurte**, en el Departamento de Nariño.

668. Según las alegaciones, a pesar de la reiterada voluntad las comunidades awá de los Municipios de Tumaco y Ricaurte de permanecer al margen de la actuación de los actores armados, se encontrarían, entre los más afectados por el conflicto armado, extendido en sus tierras tradicionales. Así, desde comienzos de 2007, habrían tenido lugar 18 casos de desplazamiento masivo de comunidades indígenas al interior del Departamento de Nariño, que habrían generado más de 10,000 desplazados internos. El último desplazamiento forzado de gran magnitud habría sido el de población indígena awá del Resguardo de Inda Sabaleta, Corregimiento de Llorente, Municipio de Tumaco (1). Además, como otra consecuencia del conflicto, se habrían reportado numerosas muertes entre los integrante de las comunidades awá, tanto como resultado de accidentes causados por minas antipersonas (2), como por asesinatos selectivos cometidos por actores armados ilegales (3).

#### 1) Desplazamiento en el Resguardo Inda Sabaleta

669. La semana del 17 de septiembre de 2007 se habría producido un desplazamiento masivo de los pobladores del Resguardo Inda Sabaleta, en particular de las veredas de Sabaleta, Pilvicito, Inda Bajo, Nortal y La Victoria, como resultado del enfrentamiento entre efectivos del Ejército colombiano y las Fuerzas Armadas Revolucionarias de Colombia–Ejército Popular (FARC-EP).

670. Según la información recibida, el día 17 de septiembre, aproximadamente a las 6.00 a.m., habrían comenzado los enfrentamientos entre las tropas pertenecientes a la Brigada 29 del Ejército Nacional y el Frente 29 de las FARC-EP, en inmediaciones de la comunidad de Pilvicito, en el Resguardo Inda Sabaleta. En la carretera de acceso al resguardo Inda Sabaleta se habrían estacionado una tanqueta y dos camiones.

671. Alrededor de las 6.40 a.m., ante la escalada del combate (en el que se habrían producido muertos), la fuerza pública habría obligado a tres familias awá de la vereda Sabaleta a abandonar sus casas. Otras familias awá habrían abandonado voluntariamente sus casas ante el temor de verse afectados por los enfrentamientos.

672. El día 19 de septiembre, alrededor de las 4.30 a.m., 1.018 awá de las veredas de Sabaleta, Pilvicito, Inda Bajo, Nortal y La Victoria (incluyendo 488 menores de edad,

261 mujeres y 20 mujeres en estado de embarazo) habrían llegado al centro educativo de la comunidad Inda Sabaleta, donde se habrían instalado con sus escasas posesiones. Se alega que ulteriormente el número de refugiados habría alcanzado aproximadamente las 1.380 personas. Según las alegaciones, a partir del 23 de octubre de 2007, la población habría comenzado a retornar a sus hogares. Actualmente la población en el centro educativo ascendería a algo más de 200 personas de las cuales el mayor porcentaje continuaría siendo niños y niñas.

673. Según las alegaciones, la respuesta del Comité Municipal de Atención a la Población Desplazada de Tumaco, autoridad responsable del sector salud, habría sido hasta la fecha muy insuficiente. De acuerdo con un estudio realizado en noviembre de 2007 por una misión conjunta del Instituto Departamental de Salud de Nariño, el Instituto Colombiano de Bienestar Familiar, el Programa Mundial de Alimentos, la Oficina de las Naciones Unidas de Coordinación de los Asuntos Humanitarios (OCHA) y la Organización Mundial de la Salud (OMS), las personas que aún se encuentran refugiadas en el centro educativo del Resguardo Inda Sabaleta se encontrarían en condiciones de extremo hacinamiento. La situación de salud de la población indígena de Inda Sabaleta se vería todavía amenazada por unas condiciones de higiene deficientes, tanto en los lugares de preparación de alimentos, como en aquellos destinados para la disposición final de basuras. Las condiciones de saneamiento básico y agua potable serían igualmente deficientes.

674. Se alega además un grave problema de desnutrición crónica especialmente en el grupo de niños y niñas. Actualmente la alimentación que se estaría ofreciendo en los albergues carecería de alimentos lácteos, de verduras y frutas. A raíz de estas condiciones, el día 10 de octubre de 2007 habría fallecido la niña Carol Narváez, de 6 meses de edad. En este sentido, quisiéramos recordar al Gobierno de su Excelencia que el derecho a una alimentación adecuada está reconocido, entre otros, en la Declaración Universal sobre los Derechos Humanos y en el artículo 11 del Pacto Internacional de Derechos Económicos, Sociales y Culturales que reconoce el derecho de toda persona a un nivel de vida adecuado. Cuando un individuo o un grupo sean incapaces, por razones que escapen a su control, de disfrutar el derecho a una alimentación adecuada por los medios a su alcance, los Estados tienen la obligación de realizar ese derecho directamente.

## 2) Muertes de miembros de comunidades indígenas causadas por minas antipersona

675. Entre las consecuencias del conflicto armado que habrían justificado el desplazamiento masivo de las comunidades awá, se encontraría el alto número de víctimas civiles, resultado a la vez de las minas antipersonas que, según las alegaciones, estarían siendo sembradas tanto por parte de los grupos armados irregulares como por el propio Ejército colombiano. Desde el comienzo del año 2007, se habrían compatibilizado 13 víctimas de las comunidades indígenas del Municipio de Ricaurte, Departamento de Nariño, por la acción de los campos minados. Los últimos fallecimientos relatados de miembros del pueblo awá, causados por minas antipersonas son los siguientes:



676. El 22 de septiembre, a las 2:30 p.m., habrían fallecido los niños Nuri Fabiola Maín Moreano, Ferney Rolando Marín Moreano y Yo María Canticus, de 14, 11 y 12 años de edad respectivamente, todos ellos pertenecientes a la comunidad de Chicandina, Resguardo Nulpe Medio Alto Río San Juan, Municipio de Ricaurte. Los niños habrían perdido la vida instantáneamente al pisar una mina cuando transitaban por los caminos de la comunidad. El sábado 18 de agosto, los Sres. Robert Guanga y Alonso Guanga, de 20 y 25 años de edad respectivamente, quienes se trasladaban de la población de Maldonado, Ecuador, hacia la Comunidad de Quembi, en el Resguardo de Nulpe Alto, habrían muerto de manera instantánea cuando cayeron en un campo minado.

677. El día 15 de julio a las 10:30 a.m., en el mismo municipio, habría igualmente perdido la vida el Sr. Arcenio Canticus al pisar una mina antipersonal cuando se dirigía a trabajar en su parcela. Se alega que sus hijos, Andres Canticus, de 8 años de edad, y German Canticus, de 12 años, también habrían perdido la vida al pisar una mina antipersonal cuando, al conocer la situación de su padre, se habrían dirigido al lugar de los hechos. El día 14 de julio a las 8:30 a.m., los Sres. Juan Dionicio Ortiz Vasquez, ex gobernador del Resguardo Vegas Chagui Chimbuza y Ademelio Pai Taicus, de la comunidad del Guadual, habrían igualmente perdido la vida al pisar una mina antipersonal cuando se habrían desplazado a sus labores de campo.

### 3) Asesinatos selectivos de líderes de las comunidades indígenas

678. Asimismo, la extensión del conflicto armado en las tierras tradicionales del pueblo awá habría dado lugar al asesinato sistemático de líderes de las comunidades a manos de los grupos armados ilegales. Así, según las alegaciones, desde principios de 2007 se habrían producido 23 asesinatos de miembros de las comunidades awá en el Departamento de Nariño. En particular, se alega que en el año 2007, habrían sido asesinados ocho miembros de las comunidades indígenas pertenecientes al Cabildo Mayor Awá de Ricaurte (CAMAWARI), una organización con presencia en 11 resguardos que tiene como objetivos la difusión de la cultura del pueblo awa y la defensa de sus derechos. Los últimos asesinatos de miembros de dicha organización habrían sido los del Sr. Vicente Nastacuas, el pasado 24 de octubre de 2007, dentro del resguardo de Magui, a manos de miembros de la Columna Mariscal Antonio José de Sucre de las FARC, y el de la Sra. Esther Nastacuas, el pasado 3 de agosto de 2007, en la comunidad de Quembi, del Resguardo de Nulpe Alto Río San Juan, en condiciones aún no clarificadas.

### **Respuesta del Gobierno**

679. Mediante dos cartas fechada el 20 de febrero de 2008 y 27 de mayo de 2008, el Gobierno respondió a la carta de alegaciones. En la carta fechada 20 de febrero de 2008, se hizo informo sobre comunicaciones enviadas por la Dirección de Derechos Humanos del Ministerio de la Defensa de la República de Colombia con respecto a las presuntas violaciones de derechos humanos de las comunidades en cuestión. Asimismo se informo sobre el estado de procesamiento las quejas formuladas por la Organización Nacional

Indígena de Colombia y la Defensoría del Pueblo relacionadas con presuntos homicidios, muertes por minas, desplazamientos forzados, ocupaciones ilegales, estigmatizaciones y otros abusos que afectan al pueblo indígena de Awa. En la misma comunicación se informó que se había pedido ampliar información a este respecto al Comando de la Tercera División y la comunicación del Gobierno incluyó la Respuesta de Oficio del Grupo de Caballería Mecanizado N° 3 con fecha 20 de septiembre de 2007. Esta respuesta se encuentra disposición para consulta y se puede acceder mediante pedido al Relator Especial.

680. Mediante la carta fechada 27 de mayo de 2008 el Gobierno de Colombia envió una comunicación ampliando la información con respecto a la comunicación enviada por los Relatores Especiales el 28 de diciembre de 2007. En dicha carta se informó que la Agencia Presidencial para la Acción Social y la Cooperación Internacional tomó conocimiento en septiembre de 2007 sobre el desplazamiento de 1.018 indígenas de la comunidad Awá como consecuencia de combates entre tropas del Ejército Nacional y las FARC. En la comunicación se detalla las acciones realizadas por el Ministerio Público, tales como proceder a recabar datos sobre la condición de las personas desplazadas a modo de censo para proceder a entregar ayuda de Asistencia de Emergencia y monitorear el retorno a sus hogares de ciertas familias donde la situación lo permitió.

681. Asimismo se detallan acciones realizadas por la comunidad internacional, como por ejemplo el trabajo de Médicos sin Fronteras para garantizar condiciones mínimas sanitarias de la situación desplazada, etc. La carta informa que a la fecha de la misma aún no era posible garantizar las condiciones de retorno de las comunidades debido a falta de condiciones de seguridad. Se informó asimismo, que el Instituto Colombiano de Bienestar Familiar ha atendido a la población Awá desplazada de manera conjunta con Acción Social y el Programa Mundial de Alimentos. En lo que concierne a la muerte de civiles a causa de minas antipersonales, se informa que el ejército ha realizado operaciones para desminar el área; sin embargo, esto no impidió la muerte de miembros de la comunidad Awá, crímenes que se están siendo investigados por la Fiscalía II Especializada de la ciudad de Pasto. La respuesta completa se encuentra disposición para consulta y se puede acceder mediante pedido al Relator Especial.

### **Llamamiento urgente**

682. El 16 de enero de 2008, la Representante Especial, junto con la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con los Sres. **Edinson Palomino Banguero**, ex Concejal y dirigente sindical; **José del Carmen Sánchez**, dirigente de la Asociación Campesina de Arauca-ACA y también los Sres. **Modesto Cáceres**; **Omar Alarcón**; **Damaris Escorcio López**; **Hernán Flórez**; **José Elio Flórez Pérez**; **Derbi Rodríguez Miranda**; **Carlos Javier Franco Acosta**; **Jorge Soler**, **Robinson Alvarez** y **Alfredo López**, la Sra. **Mercy Tatiana Blanco** y el Sr. **Osmar Pérez**, dirigente juvenil y miembro del equipo municipal del partido político “Polo Democrático Alternativo”.

683. Según la información recibida; el 12 de enero de 2008, hacia las 17.00 horas, soldados de la XVIII Brigada del Ejército habrían iniciado un operativo denominado “Operación Candado” acordonando el casco urbano del Municipio de Arauquita, Arauca, impidiendo la salida de vehículos y personas, y procediendo a efectuar detenciones masivas. Entre los detenidos se encontrarían los susodichos. Además, ese mismo día habría sido detenida la Sra. Mercy Tatiana Blanco, cuando en su calidad de representante del Ministerio Público como Personera Municipal, se dirigió al Batallón a solicitar información sobre los detenidos. Se informa también que el 14 de enero de 2008, habría sido detenido el Sr. Osmar Pérez.

684. Las detenciones se habrían producido cuando estas personas se disponían a entrar o salir del casco urbano y fueron señaladas por desertores de la guerrilla y por informantes del Ejército. Los detenidos habrían sido trasladados a la Ciudad de Arauca y habrían sido acusados de rebelión. Se teme que la detención de estas personas pueda estar relacionada con sus actividades en defensa de los derechos humanos.

### **Respuesta del Gobierno**

685. Mediante carta fechada el 14 de mayo de 2008, el Gobierno respondió al llamamiento urgente. La carta comunicó que el 16 de enero de 2008, una vez conocida la captura de la Sra. Mercy Tatiana Blanco y otras personas de la localidad, se desplazó al lugar de detención que en ese momento era la Estación de Policía de Arauca, donde constató que la funcionaria Blanco se encontraba en condiciones favorables, con un procedimiento ajustado a la ley, y un abogado defensor de confianza. La carta informó que posteriormente, la Procuraduría 182 Judicial Penal II de Arauca, practicó una visita especial a la fiscalía de Estructura de Apoyo, donde se encontraban radicados los procesos que vinculaban a las personas capturadas.

686. Asimismo, la carta comunicó que a las Sras Blanco y Damaris de Jesús Escorcía López, les fue sustituida la detención preventiva por la detención domiciliaria, teniendo en cuenta que se demostró su situación actual de madres de cabeza de familia. La carta informó que las investigaciones penales por los presuntos delitos de rebelión, que dieron origen a la captura de la Sras Blanco y Escorcía López, y a otras personas, fueron trasladadas, por motivos de seguridad, a la Unidad Antiterrorismo de fiscalías de Bogotá, D.C.

687. Se resalta que los representantes del Ministerio Público en Asuntos Penales han presentado solicitud de pruebas, asistido a las diligencias de indagatoria y realizado todas las gestiones necesarias y pertinentes para garantizar el debido proceso y el derecho de defensa de los sindicatos. Por lo que el Gobierno Nacional considera que este casto está aclarado.

### **Carta de alegaciones**

688. El 14 de febrero de 2008, la Representante Especial envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en

relación con el Sr. **Armando Montañez**, líder campesino, antiguo dirigente de la Asociación Nacional de Usuarios Campesinos (ANUC) y antiguo Presidente de la Junta de Acción Comunal de la Vereda El Paraíso, en hechos ocurridos en la vereda de Monterralo, del municipio de Aguazul, en el Departamento de Casanare.

689. Según la información recibida; el 16 de enero de 2008, hacia las 6 de la mañana, cuatro hombres habrían entrado en la casa del susodicho, ubicada en el casco urbano de la vereda Monterralo. Al enterarse, el Sr. Armando Montañez, su hijo de 9 años, y un trabajador de la finca habrían salido de la casa. Cuatro hombres vestidos de civil, dos de ellos usando pasamontañas sobre el rostro, habrían salido y habrían disparado al Sr. Montañez y a su hijo. Estos últimos habrían salido corriendo y tres de los atacantes les habrían perseguido. Al parecer, el Sr. Montañez Armando habría corrido varios kilómetros, mientras que su hijo habría logrado escapar. El cuarto agresor habría agarrado el trabajador, el Sr. José Jutinico Gómez y le habría amenazado de muerte, acusándole de pertenecer al Ejército de Liberación Nacional (ELN). Se ha informado que el Sr. Montañez habría recibido, hacía dos días, una llamada telefónica de la “Dra. Dora” desde la Fiscalía General de la Nación, quien le habría proporcionado un número de teléfono para que se comunicara con ella en caso de que tuviera problemas de seguridad.

690. Se habría hallado el cadáver del Sr. Montañez el 18 de enero de 2007 a aproximadamente las 9 de la mañana en un abismo situado a dos kilómetros de su finca, con dos impactos de bala en el cráneo y señales de malos tratos. Según se informa, el Ejército habría acordonado la zona y habría querido practicar el levantamiento del cadáver. Sin embargo, ante la presión de la familia del Sr. Montañez, no se habría permitido la realización de la mencionada diligencia judicial sino hasta la llegada de funcionarios de la Fiscalía y de su Cuerpo Técnico de Investigaciones (CTI). El Sr. Montañez habría sido acusado años atrás por la fuerza pública de ‘supuesta colaboración con la guerrilla’. Este tipo de señalamientos, según las denuncias, harían parte de una política de los mandos militares y de las autoridades judiciales hacia los habitantes de la zona. El Sr. Armando Montañez habría sido amenazado de muerte por un paramilitar de alias HK, hace aproximadamente tres años y hasta la fecha no se habría realizado ninguna investigación.

691. Se temía que el asesinato del Sr. Armando Montañez podría estar vinculado con sus actividades en defensa de los derechos humanos, particularmente los derechos de los campesinos. Asimismo se expresó profunda preocupación por la integridad física y psicológica de las otras víctimas de este ataque.

### **Llamamiento urgente**

692. El 22 de febrero de 2008, la Representante Especial envió un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **José Domingo Flores**, trabajador de la embotelladora de Coca Cola y dirigente del Sindicato Nacional de Trabajadores de las Industrias de los Alimentos (SINALTRAINAL), en la ciudad de Bucaramanga, y los Sres. **Luis Javier Correa Suárez** y **Luis Eduardo García**, Presidente Nacional y dirigente respectivamente, del

mismo sindicato. Los Sres. José Domingo Flores y Luis Javier Correa Suárez fueron objeto de un llamamiento urgente emitido por la Representante Especial del Secretario-General para los defensores de los derechos humanos el 11 de octubre de 2007, y los Sres. Luis Javier Correa Suárez y Luis Eduardo García, de un llamamiento urgente emitido por la Representante el 22 de octubre de 2007.

693. Según la información recibida, el día 12 de febrero de 2008, se habría encontrado un sobre en el domicilio del Sr. José Domingo Flores que contenía un comunicado firmado por el grupo paramilitar denominado 'Frente Aguilas Negras' amenazando a los tres susodichos. El comunicado de amenaza habría advertido a los tres que, a causa de su negativa a salir del departamento de Santander como se les habría ordenado en comunicados anteriores, las consecuencias serían 'muy inhumanas'. La carta comunicó que el citado grupo paramilitar iba a atentar contra los familiares de los susodichos y les amenazaba de muerte.'

694. El 14 de febrero de 2008, habría sido encontrado otro comunicado de amenazas en contra del Sr. José Domingo Flores, advirtiéndolo que ahora procederían contra su familia, que se llevarían a su hija del colegio y que debía abandonar y entregar su casa. Según las informaciones, estos hechos habrían ocurrido a la vez que las embotelladoras de Coca Cola habrían definido no pagar las prestaciones sociales a los trabajadores.

695. Se expresó preocupación que estas amenazas podrían estar directamente relacionadas con las actividades de los Sres. José Domingo Flores, Luis Javier Correa Suárez y Luis Eduardo García en defensa de los derechos humanos, en particular de los derechos laborales. Asimismo, se expresó profunda preocupación por la integridad física y mental de los susodichos y sus familiares.

### **Respuesta del Gobierno**

696. Mediante carta fechada 4 de abril de 2008, el gobierno respondió al llamamiento urgente. La carta comunicó que se adoptaron las siguientes medidas protectivas a favor de los dirigentes de la organización sindical SINALTRAINAL, Seccional Bucaramanga, Departamento de Santander; un apoyo de transporte terrestre para los Sres. Luis Javier Correa Suárez; José Domingo Flores y Luis Eduardo García y otros dirigentes de la SINALTRAINAL. Asimismo, la Policía Nacional implementó la realización de revistas policiales de las ciudades Bucaramanga y Floridablanca en lugares de residencia de los dirigentes sindicales y a la sede donde se encuentran las oficinas de SINALTRAINAL. La carta comunicó también que la Fiscalía General adelanta investigación penal por varias presuntas amenazas de que habrían sido víctimas los dirigentes de SINALTRAINAL. El Gobierno seguirá atento al resultado de las investigaciones que se adelantan, respecto de lo cual informará oportunamente a la Señoría.

### **Llamamiento urgente**

697. El 5 de marzo de 2008, la Representante Especial envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el

Sr. **David Ravelo Crespo**, secretario de la junta directiva de la Corporación Regional para la Defensa de los Derechos Humanos (CREDHOS). El Sr. David Ravelo Crespo fue objeto de un llamamiento urgente emitido por la Representante Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, el 22 de junio de 2005.

698. Según informaciones recibidas, en enero de 2008, el Sr. Ravelo habría recibido una llamada avisándole que un grupo paramilitar organizaba un atentado contra su vida. El 11 de febrero, una fuente habría avisado a Ravelo que un comandante paramilitar, “Gomelo”, había ordenado su muerte y que se le hacía seguimiento para atentar contra su vida. El 18 de febrero, una comunicación de la misma fuente le habría advertido al Sr. Ravelo que su asesinato estaría planeado para este mismo día. A consecuencia de esta información, el Sr. Ravelo se habría visto obligado a salir de Barrancabermeja por temer por su vida y la de su familia.

699. Se expresó profunda preocupación que las amenazas de muerte en contra del Sr. David Ravelo Crespo podrían estar directamente relacionadas con sus actividades en defensa de los derechos humanos. Asimismo, se expresó grave preocupación por la integridad física y psicológica del Sr. Ravelo Crespo y la de su familia.

### **Respuesta del Gobierno**

700. Mediante dos cartas fechadas el 24 de noviembre de 2008 y el 12 de diciembre de 2008, el Gobierno respondió al llamamiento urgente. El Gobierno informó que el Ministerio del Interior y de Justicia había comunicado que, tan pronto se tuvo conocimiento de la situación de amenaza del señor David Ravelo Crespo, dispuso la reubicación temporal de esta persona, fuera de la zona de riesgo, mientras se reforzaban las medidas de seguridad asignadas a su favor. Una vez el señor Ravelo estuvo en la ciudad de Bogotá, el Comité de Reglamentación y Evaluación de Riesgos (CRER), asignado a uno de los Programas de Protección que lidera el Ministerio del Interior y de Justicia, aprobó, en sesión del 20 de febrero de 2008, la asignación de tiquetes aéreos nacionales para que el núcleo familiar de esta persona pudiera salir de la zona de riesgo. Igualmente, se otorgó un apoyo de reubicación temporal a favor del señor Ravelo, con el fin de que pudiera asentarse transitoriamente en otra zona del país mientras se disminuía su situación de riesgo y se realizaban acciones para fortalecer las medidas de seguridad asignadas a su favor, en la ciudad de Barrancabermeja.

701. Teniendo en cuenta que el señor Crespo manifestó su intención de regresar a la ciudad de Barrancabermeja, para continuar desempeñando sus labores como defensor de derechos humanos el Comité de Reglamentación y Evaluación de Riesgos (CRER), aprobó las siguientes medidas para su protección: un esquema duro individual, compuesto por un vehículo blindado y tres escoltas; y un medio de comunicación celular.

702. Por su parte, la Policía Nacional comunicó que el Departamento de Policía Magdalena Medio, con sede en Barrancabermeja, ordenó a las patrullas de policía

aumentar las medidas de seguridad a favor del señor David Ravelo, mediante revistas permanentes a su lugar de residencia, y a las instalaciones de la ONG CREDHOS, con el fin de identificar personas o vehículos sospechosos y minimizar posibles situaciones de riesgo. Finalmente, la Fiscalía General de la Nación informó que, por hechos de presuntas amenazas en contra del señor David Ravelo Crespo, existe investigación penal radicada en la Fiscalía 1 de Estructura de Apoyo de Barrancabermeja, en etapa de indagación, programa metodológico y práctica de pruebas.

### **Llamamiento urgente**

703. El 20 de marzo de 2008, la Representante Especial junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con los homicidios de la Sra. **Carmen Cecilia Carvajal**, asociada a la Asociación de Institutores Norte Santandereanos (ASINORT), del Sr. **Leonidas Gómez Rozo**, dirigente de la Unión Nacional de Empleados Bancarios (UNEB), del Sr. **Rafael Boada**, presidente del mismo sindicato UNEB, seccional Bucaramanga, del Sr. **Gildardo Antonio Gómez Alzate**, delegado de la Asociación de Institutores de Antioquia (ADIDA), y del Sr. **Carlos Burbano**, Directivo de la Asociación Nacional de Trabajadores Hospitalarios (ANTHOC) y líder de la movilización del 6 de marzo en el municipio de San Vicente del Caguán, así como las supuestas amenazas recibidas por las Sra. **Ana María Rodríguez**, miembro de la Comisión Colombiana de Juristas (CCJ), la Sra. **Silsa Arias**, miembro de la Organización Unidad Indígena del Pueblo Awá (UNIPA), así como de otros responsables de la organización la Jornada Nacional “en homenaje a las víctimas del paramilitarismo, la parapolítica y los crímenes de Estado”.

704. Según las informaciones recibidas, el pasado 6 de marzo de 2008, las organizaciones arriba mencionadas convocaron a una Jornada Nacional “en homenaje a las víctimas del paramilitarismo, la parapolítica y los crímenes de Estado”. De acuerdo con las informaciones, dicha convocatoria habría sido seguida multitudinariamente por marchas en Bogotá, Medellín, Barranquilla, Cali y Cartagena, así como en varias ciudades en el extranjero.

705. Según se informa, los promotores de la jornada de movilización habrían sido víctimas de constantes ataques antes y después del 6 de marzo. El 4 de marzo, la Sra. Carmen Cecilia Carvajal habría sido asesinada en el municipio de Ocaña, Norte de Santander. Un día después, el Sr. Leonidas Gómez Rozo habría sido igualmente asesinado en Bogotá. El 7 de marzo, el Sr. Rafael Boada habría sido asesinado en Bucaramanga. El Sr. Gildardo Antonio Gómez Alzate habría sido asesinado en la ciudad de Medellín. El Sr. Carlos Burbano habría desaparecido el 9 de marzo y su cadáver habría sido descubierto dos días después. El Sr. Carlos Burbano, habría sido amenazado y hostigado previamente al 6 de marzo por su labor como organizador de la marcha.

706. El 12 de marzo de 2008, la abogada Ana María Rodríguez, miembro de la CCJ, que habría participado en la organización de la Jornada Nacional, habría recibido un mensaje electrónico de un grupo ilegal armado autodenominado “Águilas Negras Bloque Metropolitano de Bogotá”.

El mensaje recibido tendría el siguiente tenor:

707. Muerte a los líderes marcha por la paz y guerrilleros y auxiliares se cubren como desplazados y son guerrilleros por eso los declaramos objetivo militar de las Águilas Negras y las tales ONG, asociaciones y fundaciones como MINGA, REINICIAR, FUNDIP, ASOPRON, ANDAS, ASDEGO, FENACOA, ASOMUJER, TAO, CODHES, CUT y otros. Ustedes utilizaron dicha marcha del 06 de marzo del presente año para hundirnos más y poner la gente en contra nuestra, comenzaremos a matarlos uno por uno vamos a ser implacables no dejaremos cabo suelto (...). Comenzaremos a desaparecer líderes y dirigentes de izquierda como Diana Sánchez, Jael Quiroga, Albeiro Betancourt, Lizarazo, Luis Sandoval, Viviana Ortiz, Diana Gómez, Viviana Ortiz, Francisco Bustamante, Nancy Carvajal, Luz Estella Aponte, Pablo Arenales, Yulieth Tombe, Juan Pineda, Virgelina Chara, Nubia Silva, Ester Marina Gallego, Nancy Fiallo, Omar Hernández, Diana Marcela Caicedo, Silsa Arias, Jorge Ramírez, Luz Elena Ramírez, Ana María Rodríguez, Nelly Velandia, Blanca Sarmiento, Libardo Pedrozo, Alfonso Silva y otros que están en nuestra lista. ¡Nosotros aún estamos presentes Águilas Negras con un paso hacia el futuro!

708. Según las informaciones recibidas, las personas identificadas en el mensaje formarían parte del Comité de Impulso del Encuentro Nacional de Víctimas pertenecientes a Organizaciones Sociales, responsable de la organización de la Jornada nacional el 6 de marzo de 2008. Las organizaciones no gubernamentales que se mencionan en el mensaje habrían convocado o se habrían adherido a dicha Jornada.

709. La Sra. Silsa Arias, en particular, sería miembro de la Organización Unidad Indígena del Pueblo Awá (UNIPA), en el Departamento de Nariño. Se da la circunstancia de que, desde el pasado 12 de febrero, la UNIPA y las otras organizaciones sociales de Nariño que habrían participado en la Jornada Nacional de 6 de marzo habrían recibido amenazas de supuestas organizaciones paramilitares.

### **Respuesta del Gobierno**

710. Mediante carta fechada 29 de septiembre, el Gobierno respondió al llamamiento urgente. En relación con el caso de la Sra. Carmen Cecilia Carvajal Ramírez, la carta afirmó los eventos del llamamiento urgente sobre su muerte. La carta proporcionó la información de que una investigación fue avocada por la Fiscalía 1 en desarrollo de la cual elaboró el programa metodológico y de que actualmente, la investigación se encuentra en etapa de indagación.

711. En relación con el caso del Sr. Leonidas Gómez Rozo, la carta comunicó que una vez se tuvo conocimiento del hecho (unos cuatro días después de su muerte), se acudió al



sitio en donde además de efectuar las actividades pertinentes en la escena, se decepcionaron varias entrevistas, y se ordenó la práctica de pruebas. Asimismo, se indicó que se han recuperado el celular utilizado por el occiso y que se terminará el análisis de los archivos que se lograron recuperar en el computador de la víctima.

712. En relación con el caso del Gildado Antonio Gómez Alzate, se comunicó que, a la fecha, la investigación se encuentra en etapa de indagación. Según el ente investigador, el día 9 de marzo de 2008, cuando la víctima se hallaba con unas menores de edad, a quienes al parecer les pagaba por favores sexuales, llegaron a su vivienda dos hombres portando armas blancas, quienes empezaron a empaquetar algunos electrodomésticos agrediendo al Sr. Gómez Alzate, cuando este opuso resistencia al hurto. El día 14 de marzo de 2008, se elaboró un programa de investigación.

713. En relación con el caso del Sr. Carlos Burbano, quien desapareció el día 9 de marzo, la carta afirmó los hechos del encuentro de su cadáver

### **Llamamiento urgente**

714. El 3 de abril de 2008, la Representante Especial envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con los Sres. **Frank William Cayapur Delgado, Edward Mina Cuero y Yimi Armando Jansoy Muñoz**, todos miembros de la Comisión Intereclesial Justicia y Paz, y la Sra. **Isabelino Valencia**, miembro del Consejo Comunitario de la cuenca del río Naya en los departamentos del Cauca y Valle de Cauca. Los susodichos han ayudado a las comunidades afrodescendientes de la zona en sus esfuerzos a obtener la propiedad de las tierras que cultivan.

715. Según las informaciones recibidas, el 24 de marzo de 2008, Isabelino Valencia habría recibido una llamada a su teléfono móvil de un hombre que le dijo: “nosotros los estamos siguiendo cuiden lo que hablan y dicen”. Anteriormente, se habrían recibido tres amenazas de muerte en la casa del municipio de San Francisco Naya, departamento del Valle del Cauca, donde vivían los miembros de Justicia y Paz. En la madrugada del 19 de marzo de 2008 se habría recibido un comunicado firmado por el grupo paramilitar, Aguilas Negras, que incluía los dibujos de un cráneo y una lápida. En los siguientes días se habrían recibido dos cartas de contenido parecido. Se ha informado que los defensores amenazados se encontrarían actualmente fuera de la zona.

716. La carta del 19 de marzo habría dicho: “Muerte. Lease y cumplase justicia y paz. Por el seguimiento realizado a su trabajo les pedimos el favor de salir de la zona no queremos obstáculos. William sabemos mucho de uste [...]. Somos el grupo de control para-el naya aguilas negras en buenaventura. Los esperamos.”.

717. Se alegó que las amenazas en contra de las cuatro personas arriba mencionadas podrían estar directamente relacionadas con sus actividades en defensa de los derechos humanos, en particular su apoyo a las comunidades afrodescendientes de la cuenca del río

Naya. Asimismo, se expresó grave preocupación por su integridad física y psicológica, así como la de los demás miembros de sus organizaciones.

### **Carta de alegaciones**

718. El 14 de abril de 2008, la Representante Especial envió una carta de alegaciones enviando una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el asesinato del Sr. **Adolfo González Montes**, dirigente sindical del Sindicato Nacional de los Trabajadores de la Industria del Carbón (SINTRACARBON), Seccional Barrancas, y otros dirigentes sindicalistas que actualmente se encuentran en peligro.

719. De acuerdo con las informaciones recibidas, en la madrugada del 22 de marzo de 2008, el Sr. Adolfo González Montes habría sido torturado y luego asesinado en su residencia en la ciudad de Riohacha, Departamento de la Guajira. Según se informa, el Sr. Adolfo González Montes habría sido miembro activo de la comisión de reclamos de la Seccional Barrancas de SINTRACARBÓN.

720. Adicionalmente, se habría denunciado que algunos directivos de SINTRACARBÓN habrían sido amenazados por medio de llamadas telefónicas o personas que se les habrían acercado. Asimismo, líderes del sindicato aparecerían en comunicados amenazantes enviados por grupos al margen de la ley. Se habría denunciado que siempre que el sindicato estaba ante una negociación colectiva de trabajo, se intensificaban las amenazas contra los dirigentes del mismo.

721. La Representante Especial recordó que este asesinato se sumaba a una serie de ataques contra sindicalistas y líderes de la sociedad civil en las últimas semanas en Colombia. Se expresó grave preocupación por el asesinato del Sr. Adolfo González Montes y por la seguridad física y psicológica de los dirigentes sindicalistas bajo amenaza.

### **Llamamiento urgente**

722. El 21 de abril de 2008, la Representante Especial envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con **miembros de varias organizaciones y movimientos de la sociedad civil** colombiana, incluyendo el Programa de Desarrollo y Paz del Magdalena Medio, la organización de derechos humanos Corporación SEMBRAR, el sindicato Federación Agrominera del Sur de Bolívar (FEDEAGROMISBOL) y sacerdotes católicos que trabajan en los municipios de Tiquisio, Arenal y Regidor, departamento de Bolívar.

723. De acuerdo con las informaciones recibidas, el 10 de abril de 2008, varios miembros de las susodichas organizaciones habrían recibido por correo electrónico una amenaza de muerte firmada por el grupo paramilitar Águilas Negras, en la que se les habría informado que se les consideraba objetivos militares y, por tanto, les asesinarían. Además, se habría acusado a los amenazados de ser auxiliares o miembros de la guerrilla

y se les habría informado de que los miembros de sus organizaciones habían sido sometidos a vigilancia en los municipios de Tiquisio, Arenal, La Gloria y Regidor, en el departamento de Bolívar, y en el de Aguachica, en el departamento del Cesar.

724. Cabía destacar que estas amenazas se sumarían a una serie de numerosos casos de intimidación, hostigamiento, amenazas y asesinatos de dirigentes de diversas organizaciones no-gubernamentales, sindicatos, y movimientos de la sociedad civil en los últimos meses en Colombia. Se observó esta tendencia con preocupación grave y se temía que estas últimas amenazas, así como las anteriores, pudieran deberse a las actividades de las organizaciones citadas y de sus miembros en defensa de los derechos humanos. Asimismo, se expresó profunda preocupación por la integridad física y psicológica de los individuos afectados por estos incidentes.

### **Llamamiento urgente**

725. El 21 de abril de 2008, la Representante Especial envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. **Ingrid Vergara**, líder del Movimiento Nacional de Víctimas de Crímenes de Estado (MOVICE) en la ciudad de Sincelejo, Departamento de Sucre.

726. De acuerdo con las informaciones recibidas, el 2 de abril de 2008, la hija de la susodicha, Cendi Paola Torres Vergara, de 12 años de edad, habría sido abordada en el patio de su colegio en Sincelejo, por tres hombres y una mujer, que se habrían acercado en una camioneta blanca. El conductor del vehículo le habría dicho a la joven: “te vamos a matar por lo que tu madre está haciendo”. Tras proferir la amenaza, el vehículo habría salido del lugar.

727. La denuncia formal de estos hechos habría sido presentada ante la Unidad de Reacción Inmediata, URI, de la Fiscalía General de la Nación, seccional Sincelejo. Asimismo, se habrían registrado los antecedentes en el caso. Se informó que no sería la primera vez que el vehículo mencionado circuló en cercanías del domicilio de la Sra. Vergara y del colegio de su hija. El 11 de marzo de 2007, varios hombres que se habrían desplazado en el mismo tipo de vehículo habrían preguntado por “la mujer que trabaja en derechos humanos”.

728. Se informó que, en 2007, la Comisión Interamericana de Derechos Humanos (CIDH) le concedió medidas de protección a la Sra. Ingrid Vergara, a fin de que todas las autoridades competentes tomen las medidas de protección apropiadas, en vista del acoso sufrido por la susodicha.

729. Se alegó que el hostigamiento de la Sra. Ingrid Vergara y las amenazas en contra de ella y su familia pudieran tener relación directa con sus actividades en defensa de los derechos humanos, en particular los derechos de las víctimas, así como su coordinación en el Departamento de Santander de la movilización del pasado 6 de marzo. En vista de las informaciones aquí resumidas, se expresó profunda preocupación por la integridad física y psicológica de la Sra. Vergara, así como la de su familia.

### **Respuesta del Gobierno**

730. Mediante carta fechada 20 de mayo de 2008, el Gobierno respondió al llamamiento urgente. La carta comunicó que después de una reunión entre el Ministerio del Interior y de Justicia, la Sra. Ingrid Vergara y los peticionarios de medidas cautelares otorgadas por la CIDH, la Policía Nacional dispuso continuar con la seguridad perimetral, a través de rondas periódicas y se reactivó el enlace de la Policía Nacional.

731. Asimismo, la carta informó que la Fiscalía Sexta Seccional del Departamento de Sucre, adelanta la indagación radicada por el delito de amenazas con el fin de establecer los presuntos responsables. El Gobierno seguirá atento al resultado de las investigaciones que de adelantan, respecto de lo cual informará oportunamente.

### **Llamamiento urgente**

732. El 23 de mayo de 2008, la Relatora Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con varios casos.

733. Los titulares de mandato acusaron recibo de la respuesta rápida del gobierno colombiano al comunicado de prensa del 30 de abril de 2008. Reconocieron la cooperación del Gobierno en este respecto y notaron con agrado el diálogo constructivo entre ambas partes para abordar las problemáticas de los derechos humanos en Colombia, y expresaron su deseo que dicho diálogo continuara en el futuro.

734. En el marco de esta cooperación para mejorar el respecto de los derechos humanos, creían pertinente señalar a la atención urgente del Gobierno informaciones que seguían recibiendo sobre violaciones y ataques en contra de los defensores de derechos humanos.

735. En este contexto, los titulares de mandato señalaron la información recibida en relación con el asesinato del Sr. **Jesús Heberto Caballero Ariza**, cuyo cadáver se encontró el pasado 17 de abril, al parecer con señales de tortura. El difunto defensor de los derechos humanos era fiscal suplente del Sindicato Nacional del Servicio Nacional de Aprendizaje (SINDESENA), seccional Atlántico e instructor de Ética y Derechos Humanos del Centro agropecuario CAISA. Asimismo, se había recibido información relacionada con la presunta desaparición forzada del Sr. **Guillermo Rivera Fúquene**, Presidente del Sindicato de Servidores Públicos de Bogotá (SINSR.VPUB), ocurrida el pasado 22 de abril.

736. Además se habían recibido informaciones sobre amenazas en contra de la Sra. **Ana María Sánchez**, el Sr. **Gustavo Gallón Giraldo** y la Sra. **Claudia Julieta Duque**. La Sra. Sánchez es asistente del Sr. Gallón Giraldo, Director de la Comisión Colombiana

de Juristas. La Sra. Duque es periodista autónoma y colaboradora de la organización de derechos humanos Equipo Nizkor.

737. De acuerdo con las informaciones recibidas, el 1 de mayo de 2008, la Sra. Sánchez habría recibido un correo electrónico firmado por el grupo paramilitar, las Águilas Negras. El correo habría sido de carácter amenazante y antisemita, afirmando que se limpiarían ‘las calles de la basura comunista, judía y antinatural’. Por otra parte, la periodista Claudia Julieta Duque habría tomado la decisión de renunciar a los escoltas otorgadas a ella por el Estado en diciembre de 2003 como medida de protección, tras informarse de que éstos le hicieron falsas imputaciones a la susodicha en sus informes al Departamento Administrativo de Seguridad.

738. También se había recibido información en relación con amenazas ocurridas en las semanas anteriores por varios miembros de organizaciones no gubernamentales y movimientos de la sociedad civil colombiana incluyendo: los Sres. **José Humberto Torres**, **Nicolás Castro** y **Príncipe Gabriel González**, así como las Sras. **Carolina Rubio** y **María Cedeño**; miembros de la Fundación Comité de Solidaridad con los Presos Políticos (FCSPP), el Sr. **Jesús Tovar**, miembro de la Central Unitaria de Trabajadores (CUT) en el departamento de Atlántico, el Sr. **Javier Correa**, miembro del Sindicato Nacional de Trabajadores de la Industria de Alimentos (SINALTRAINAL), la Sra. **María Cardona**, miembro del Comité Permanente de Derechos Humanos (CPDH) y la Sra. **Martha Cecilia Díaz** y Sr. **Nicanor Arciniegas**, presidente y miembro respectivamente de la Asociación Santandereana de Servidores Públicos (ASTDEMP), y miembros de otras organizaciones de derechos humanos y sindicatos en los departamentos de Santander y Atlántico.

739. El Sr. José Humberto Torres Díaz fue objeto de un llamamiento urgente, emitido el 19 de octubre de 2006, por la Representante Especial del Secretario-General para los defensores de los derechos humanos y el Relator Especial sobre la independencia de magistrados y abogados. El Sr. Jesús Tovar fue objeto de un llamamiento urgente, emitido el 26 de mayo de 2005 por la entonces Representante Especial del Secretario-General sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión. El Sr. Javier Correa fue objeto de llamamientos urgentes, emitidos por la entonces Representante Especial del Secretario-General sobre la situación de los defensores de los derechos humanos el 11 y 22 de octubre de 2007 y, conjuntamente con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, el 22 de febrero de 2008. La Sra. Duque fue el objeto de un llamamiento urgente conjunto enviado por la entonces Representante Especial del Secretario-General para los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión el 23 de septiembre de 2004.

740. De acuerdo con las informaciones recibidas, el 22 de abril, los miembros de la Central Unitaria de Trabajadores (CUT) en el departamento de Santander, en el nordeste de Colombia, habrían recibido una amenaza de muerte por escrito del grupo paramilitar ‘Nueva Generación de Águilas Negras de Santander’. La amenaza, con fecha del 18 de

abril, advertía contra la celebración de marchas o manifestaciones con ocasión del Día Internacional del Trabajo, el 1 de mayo; “hay dispuesto un destacamento de hombres quienes cumplirán nuestras ordenes y harán limpieza de todos ustedes serviles de la guerrilla”. La comunicación habría nombrado a 17 miembros de sindicatos y organizaciones de derechos humanos a los que declaraba “objetivo militar” y entre los que se encontraban algunos de los susodichos.

741. El 23 de abril, los Sres. José Humberto Torres y Jesús Tovar habrían recibido por correo electrónico una amenaza de muerte firmada las ‘Águilas Negras al Rearme’. La amenaza, con fecha del 21 de abril, habría acusado a los dos hombres de ser guerrilleros, advirtiéndole a José Humberto Torres ‘que se cuide, donde lo veamos lo damos’. Además, habría advertido a los miembros de otros sindicatos y organizaciones de derechos humanos de que guardaran silencio, señalando que María Cedeño y Nicolás Castro estaban siendo vigiladas.

742. Los titulares de mandato querían también señalar a la atención del Gobierno declaraciones hechas en contra del Sr. **Iván Cepeda Castro**, dirigente de la Fundación Manuel Cepeda Vargas, representante del Movimiento Nacional de Víctimas de Crímenes del Estado y columnista con el semanario El Espectador. El susodicho fue objeto de un llamamiento urgente, emitido el 12 de diciembre de 2006 por la Representante Especial del Secretario-General para los defensores de los derechos humanos.

743. Valoraron el respaldo y reconocimiento del importante papel de los defensores de derechos humanos en Colombia, expresado en la respuesta del Gobierno al reciente comunicado de prensa y reconocieron los esfuerzos por parte del Estado colombiano para mejorar la seguridad de los defensores. No obstante, deseaban manifestar su preocupación en relación con declaraciones como aquellas hechas el pasado 6 de mayo en Montería y en la Cátedra Colombia en Bogotá por el Presidente de Colombia respecto a algunos defensores de derechos humanos, en particular al Sr. Iván Cepeda Castro. Según se informó, el Presidente Uribe habría declarado que personas como el susodicho se arroparían en la protección de las víctimas, la cual ‘les sirve para instigar la violación de los derechos humanos en contra de las personas que no comparten sus ideas’ y para ‘salir a amenazar,...calumniar,...acusar falazmente’.

744. A juicio de los titulares de mandato, estas declaraciones, sumadas a otras hechas en los últimos meses por representantes del gobierno colombiano, podrían resultar sumamente perjudiciales, dado que, actualmente en Colombia muchos defensores de derechos humanos se enfrentan a intimidación y amenazas como aquellas resumidas más arriba. Se expresó profunda preocupación por la integridad física y psicológica de todos aquellos individuos que se encuentran amenazados debido a su trabajo legítimo en defensa de los derechos humanos.

### **Respuesta del Gobierno**

745. In a letter dated 5 June 2008, the Government responded to the urgent appeal of 23 May 2008 with an outline of the general measures adopted to address some of the issues raised in the communication.

### **Llamamiento urgente**

746. El 6 de junio de 2008, la Relatora Especial envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con los Sres. **Andrés Gil** y **Miguel Ángel González Huepa**. El Sr. Andrés Gil es Coordinador de la sede de la Asociación Campesina del Valle del Río Cimitarra (ACVC) y el Sr. González Huepa es miembro de la Junta Directiva de la misma organización en Magdalena Medio. El Sr. Gil fue objeto de un llamamiento urgente, emitido el 4 de octubre de 2007, tras su detención el 29 de septiembre de 2007, por la Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y la entonces Representante Especial del Secretario-General para los defensores de los derechos humanos. Dicho llamamiento urgente tuvo respuesta del Gobierno el 15 de enero de 2008.

747. De acuerdo con las informaciones recibidas, el 23 de abril de 2008, se habrían cerrado de forma definitiva las investigaciones por supuesta rebelión contra tres otros líderes de la ACVC; los Sres. Oscar Duque, Mario Martínez y Evaristo Mena. Según se informa, el fin de la investigación y la posterior liberación de los hombres se habrían dado debido a la ausencia de pruebas. Asimismo, el 16 de mayo, se habría liberado al Sr. Ramiro Ortega, otro miembro de la Junta Directiva de la ACVC, tras la preclusión de la investigación contra él por presuntos cargos de rebelión.

748. Según se indica, las pruebas y testimonios considerados carentes en los casos de los Sres. Duque, Martínez, Mena y Ortega serían los mismos que se seguirían aplicando contra los Sres. Gil y González Huepa. Por otra parte, se había informado que, había tres procesos judiciales abiertos contra miembros de la ACVC sin que hubiese avances en las investigaciones.

749. Se alegó que la detención continuada de los Sres. Gil y González Huepa podría estar directamente relacionada con sus actividades en defensa de los derechos humanos y la visibilidad que tienen dichas actividades, en particular las a favor de los derechos de las comunidades campesinas del Valle del Río Cimitarra. Se expresó preocupación tanto por la integridad física y psicológica de los dos hombres que siguen detenidos, como por aquellos liberados que podrían enfrentarse a nuevas amenazas.

### **Carta de alegaciones**

750. El 25 de junio de 2008, la Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación

con un grupo de personas; el Sr. **César Plazas**, Sr. **David Florez**, Sra. **Nohora Villamizar** y Sr. **Fernando Porras**, miembros de la sección de Santander de la Central Unitaria de Trabajadores. El Sr. Javier Correa es miembro del Sindicato Nacional de Trabajadores de la Industria de Alimentos. La Sra. Martha Cecilia Díaz es presidenta de la Asociación Santandereana de Servidores Públicos. La Sra. Belcy Rincón es miembro de Sintraclínicas, que representa a trabajadores de la salud. Los Sres. William Rivera y Gustavo Mendoza y la Sra. Carolina Rubio son miembros de la organización no gubernamental de derechos humanos Fundación Comité de Solidaridad con los Presos Políticos. El Sr. César Tamayo es presidente del sindicato campesino Asociación Agraria de Santander.

751. El Sr. Javier Correa fue objeto de llamamientos urgentes emitidos por la entonces Representante Especial del Secretario-General sobre la situación de los defensores de los derechos humanos el 11 y 22 de octubre de 2007 y, conjuntamente con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, el 22 de febrero de 2008. También fue objeto de un llamamiento urgente emitido por éstos últimos, juntos con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, el 23 de mayo del 2008. Esta comunicación se refería también a amenazas en contra de la Sra. Carolina Rubio y contra miembros de otras organizaciones de derechos humanos y sindicatos en los departamentos de Santander y Atlántico, y tuvo respuesta del Gobierno de Su Excelencia mediante carta con fecha del 5 de junio de 2008.

752. De acuerdo con las informaciones recibidas, el 11 de junio, un hombre en una motocicleta se habría acercado al domicilio de César Tamayo. El hijo de éste, de 11 años de edad, le abrió la puerta y el hombre, con la cara oculta por el casco, le habría entregado un sobre en el que se habría encontrado una lista de los nombres de todos los susodichos (menos el de la Sra. Rincón) junto a una cruz, anunciando su muerte.

753. La comunicación habría declarado objetivos militares a todos los susodichos y les habría acusado de pertenecer a la guerrilla y de promover marchas antipatrióticas. La amenaza de muerte habría estado firmada por del grupo paramilitar las Águilas Negras.

754. El 19 de junio, unos desconocidos le habrían dejado una carta a la Sra. Belcy Rincón en su urbanización que habría contenido amenazas de muerte. La amenaza habría llevado también la firma de las Águilas Negras.

755. Estas amenazas su suman a una serie de incidentes parecidos que señalan la intensificación de las amenazas en contra de los sindicalistas y activistas sociales en Colombia en los últimos meses. Tras estas nuevas amenazas, reiteramos nuestra preocupación por la integridad física y psicológica de todos los susodichos, así como la de los demás integrantes de sus organizaciones.

### **Carta de alegaciones**

756. El 25 de junio de 2008, la Relatora Especial sobre la situación de los derechos humanos y el Relator Especial sobre la independencia de magistrados y abogados



enviaron una carta de alegaciones respecto de varios temas que tocan el mandato a su conferido por dicha resolución. Según, la Relatora Especial persiste una situación delicada de amenazas y violencia contra **abogados y defensores de derechos humanos**, al mismo tiempo que se están presentado diversas irregularidades en el sistema de administración de justicia, todo lo cual atenta contra la independencia de los abogados en particular y del Poder Judicial en general.

757. Así, la Relatora Especial ha sido informada de la existencia de agresiones y actos de violencia contra los abogados defensores de derechos humanos, quienes estarían siendo víctimas de asesinatos, atentados y amenazas, llegando a veces a verse obligados a recurrir a desplazamientos forzados o al exilio. Al respecto, el Consejo Superior de la Magistratura no llevaría un registro del número de abogados asesinados, desaparecidos, torturados, desplazados o exiliados, o que han sufrido limitaciones al ejercicio de su profesión.

758. Por otra parte, de acuerdo a la información recibida el papel de los abogados defensores de derechos humanos resultaría frecuentemente estigmatizado por las autoridades. Aún desde los niveles más altos del Poder Ejecutivo se emitirían opiniones públicas identificando al abogado con la persona cuyos derechos defiende. Esta persecución se extendería a gran parte de los operadores del sistema judicial y policial que, por añadidura, recurrirían a acciones administrativas, judiciales y de hecho, criminalizantes del ejercicio profesional, particularmente cuando se trata de abogados penalistas, laboristas o defensores de derechos humanos.

759. De acuerdo con la información recibida, entre las acciones tomadas en contra de los abogados está la persecución disciplinaria, procedimientos judiciales iniciados como represalia contra el abogado por el ejercicio de sus actividades profesionales, interceptación de comunicaciones, allanamientos y robos de información relacionada con el ejercicio de la profesión. Asimismo, se le informa que violaciones al debido proceso, en particular a la garantía de la igualdad de armas, están siendo utilizadas como herramienta para limitar las actividades profesionales de los abogados, en especial de los defensores de derechos humanos. Así, se estaría violando la confidencialidad de la relación abogado-cliente, se estaría limitando el acceso de los abogados a los expedientes o a los lugares de detención y se les estaría impidiendo hacerse cargo de la defensa de ciertos casos.

760. Además se informa a la Relatora Especial que todas estas acciones y agresiones en contra de los abogados no son debidamente investigadas por las autoridades, lo cual hace aún más difícil el ejercicio de la profesión de abogado, en especial para los defensores de derechos humanos.

761. Con relación al modelo de sistema judicial, se informa a la Relatora Especial que la entrada en vigencia del sistema de tipo acusatorio como un nuevo sistema procesal penal a partir de 2004 habría afectado profundamente el debido proceso. De acuerdo a la información recibida, el Estado no habría adoptado medidas para colaborar en el reentrenamiento de los abogados particulares. Según se informa, sí lo habría hecho, en

cambio, con los funcionarios del poder judicial, quienes, pese a la vigencia del sistema de tipo acusatorio, seguirían utilizando las prácticas del antiguo sistema inquisitivo. Asimismo, según se me informa, en Colombia no existiría la colegiación obligatoria, lo cual disminuye la defensa de los intereses gremiales y la protección personal del abogado.

762. Por otra parte, la Relatora Especial ha recibido información según la cual las medidas cautelares otorgadas por el Estado a las víctimas de amenazas, aunque demuestran una voluntad estatal de responder a su compromiso internacional, muchas veces se tornarían un mero trámite administrativo, pues, de manera general, habrían perdido eficiencia debido al número significativo de perseguidos y a la carencia de recursos humanos, financieros y logísticos.

### **Respuesta del Gobierno**

763. Mediante carta fechada 4 de septiembre 2008, el Gobierno respondió al llamamiento urgente. La carta informó sobre las políticas de derechos humanos, y verificó las medidas de protección adoptadas a favor de las 25 personas que han sido objeto de intimidaciones, encontrándose que solo tres no contaban con medidas de protección. En relación con los homicidios, la Fiscalía General inició las investigaciones correspondientes. Para la protección del pueblo de defensores de derechos humanos, el Gobierno por medio de Dirección de Derechos Humanos del Ministerio viene liderando, desde 1997, un Programa de Protección a defensores de derechos humanos.

### **Llamamiento urgente**

764. El 30 de junio de 2008, la Relatora Especial sobre la situación de los derechos humanos y el Relator Especial y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión enviaron una carta de alegación en relación con los Sres. **Guillermo Castaño Arcila, Mauricio Cubides y Diego Macias**. El Sr. Castaño es Presidente del Comité Permanente por la Defensa de los Derechos Humanos (CPDH) y los Sres. Cubides y Macias son miembros de la misma organización.

765. El Sr. Castaño Arcila fue, junto con otros integrantes del CPDH, el objeto de un llamamiento urgente, emitido por la entonces Representante Especial del Secretario-General sobre la situación de los defensores de los derechos humanos el 6 de octubre de 2006, el cual tuvo respuesta del Gobierno mediante cartas con fecha del 9 enero y 26 de febrero de 2007. Respecto a la presunta desaparición forzada del Sr. Walter Álvarez Ossa, integrante del CPDH quien también fue objeto de la comunicación; pedimos que se proporcione información actualizada acerca del caso.

766. De acuerdo con las nuevas informaciones recibidas, el 24 de junio de 2008, los susodichos habrían recibido un mensaje escrito por parte del grupo paramilitar, denominado los ‘Águilas Negras’ mediante el cual se les habría notificado que tenían un plazo de dos días para salir de la ciudad de Calcará, Departamento de Quindío donde trabajaban o se comenzaría a “darles de baja”.

767. Se alega que las amenazas en contra de los Sres. Castaño Arcila, Cubides y Macias podrían estar directamente relacionadas con sus actividades en defensa de los derechos humanos. Estos hechos se suman a una larga serie de amenazas en contra de los integrantes del CPDH en los últimos años y en contra de muchos sindicalistas y defensores de derechos humanos, una tendencia que se ha intensificado en 2008. Expresamos nuestra preocupación por la integridad física y psicológica de los susodichos y reiteramos nuestra seria preocupación por la situación de los defensores de los derechos humanos en Colombia.

### **Llamamiento urgente**

768. El 2 de julio de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión enviaron un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con la **Red Juvenil de Medellín**, red que proporciona ayuda a los jóvenes y trabaja en contra del reclutamiento de parte de los grupos paramilitares y el ejército colombiano. También trabaja para defender los principios de no violencia y de la objeción de conciencia.

769. De acuerdo con las informaciones recibidas, el 30 de mayo de 2008, una amenaza de muerte mandada por el grupo paramilitar las Águilas Negras habría llegado a la Red Juvenil de Medellín por correo electrónico. El correo habría contenido el mensaje “Muerte a anarquistas disfrazados de pacifistas, no mas conciertos de drogas ni comunistas, no hay mas avisos” [sic.]. El 17 de mayo de 2008 la Red Juvenil de Medellín había organizado un concierto contra la militarización que se da cada año en Medellín para celebrar el Día Internacional de la Objeción de Conciencia. Unos 5,000 jóvenes habrían asistido al evento.

770. Se alegó que las amenazas en contra de los integrantes de la Red Juvenil de Medellín podían estar directamente relacionadas con sus actividades en defensa de los derechos humanos, en particular su trabajo a favor de los principios de la objeción de conciencia y de no violencia. Se expresó preocupación por la integridad física y psicológica de los integrantes de la Red Juvenil de Medellín.

### **Llamamiento urgente**

771. El 3 de julio de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión enviaron un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con los miembros del **Espacio de Trabajadores y Trabajadoras de Derechos Humanos (ETTDH)**, que agrupa a varios movimientos sociales y organizaciones de defensores de derechos humanos, incluyendo la **Organización Femenina Popular (OFP)**, la **Corporación Regional para la Defensa de los Derechos Humanos (CREDHOS)**, la **Asociación**

**Campesina del Valle del Río Cimitarra (ACVC)** y la organización no gubernamental **ASODESAMUB** en Barrancabermeja y la región del Magdalena Medio.

772. Miembros de la OFP ya fueron objeto de seis comunicaciones de la anterior Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos. Se recibió la respuesta a la comunicación más reciente enviada el 14 de noviembre de 2007. La respuesta del Gobierno fechada 4 de abril de 2008 informó sobre las medidas de protección otorgadas a la OFP. Seguimos interesados en recibir más información sobre los avances de las investigaciones llevadas a cabo por la Fiscalía 1 de la Estructura de Apoyo de la ciudad de Barrancabermeja para que los responsables de las amenazas y ataques a las y los defensoras/es de derechos humanos no queden impunes. También se enviaron tres comunicaciones sobre las amenazas en contra de la organización CREDHOS, la última en fecha 6 de marzo de 2008, comunicación que todavía no tiene una respuesta de Su Gobierno. También 2 comunicaciones se enviaron sobre la situación de miembros de la ACVC, la última enviada el 6 de junio de 2008.

773. De acuerdo con las informaciones recibidas, el 18 de junio de 2008, una de las organizaciones miembros del ETTDH habría recibido un anuncio amenazante de las Águilas Negras, identificando a las citadas organizaciones como objetivos militares. La comunicación, que habría llevado la firma del “comandante de zona, Águilas Negras Unidas de Colombia”, habría alegado que estos grupos sirven a guerrilleros y promueven a grupos insurgentes con el fin de desestabilizar al Estado.

774. Se expresó preocupación que la amenaza en contra de las citadas organizaciones podría estar directamente relacionada con sus actividades en defensa de los derechos humanos. En vista de estas amenazas y casos parecidos tratados en comunicaciones anteriores, como las mencionadas arriba, que indican un entorno extremadamente peligroso y amenazante no obstante las medidas de protección ya adoptadas por el Gobierno se expresó preocupación por la integridad física y psicológica de los integrantes de las organizaciones mencionadas.

### **Respuesta del Gobierno**

775. Mediante carta fechada el 1 de diciembre de 2008, el Gobierno de Colombia respondió al llamamiento urgente. El Gobierno solicitó que se precisara la información acerca de los supuestos hechos ocurridos el 18 de junio y referidos en el llamamiento urgente, especialmente en lo concerniente a la identificación e individualización de las víctimas de las presuntas amenazas.

### **Carta de alegaciones**

776. El 16 de julio de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. **Martha Cecilia Obando**, conocida también como Doña Chila. La Sra. Martha Cecilia Obando era presidenta de la Asociación de Mujeres Desplazadas del Barrio San Francisco (ASODESFRAN), una

organización comunitaria de mujeres desplazadas a causa del conflicto armado interno de Colombia quienes han perdido a miembros de sus familias por el conflicto. También era integrante de la Red Local Madres por la Vida, otra organización comunitaria que intenta reducir los niveles de violencia del conflicto y ayuda a víctimas de violaciones de derechos humanos a buscar justicia. Además lideraba Familias en Acción en San Francisco, un programa gubernamental que proporciona apoyo monetario para familias pobres de la zona.

777. Según las informaciones recibidas, el 29 de junio de 2008 sobre las 19:45h, la Sra. Martha Cecilia Obando habría sido matada a tiros mientras andaba por la calle principal de San Francisco en Buenaventura, Valle del Cauca. Habría habido tres heridas de balas en su cuerpo. El hombre que la habría disparado se habría huido en un motocicleta conducido por otro hombre. Se cree que éstos tenían vínculos con una alianza de traficantes de droga y grupos paramilitares. El ataque habría tenido lugar una hora después de un torneo de juegos tradicionales que la Sra. Martha Cecilia Obando había organizado para disuadir a jóvenes de una vida de violencia y de juntarse con grupos militares o con bandas.

778. Se expresó preocupación que el asesinato de Sra. Martha Cecilia Obando podría estar directamente relacionado con sus actividades en defensa de los derechos humanos, en particular sus esfuerzos a disuadir a los jóvenes de juntarse con bandas y grupos militares. Tales actos, de ser confirmados, se enmarcaban en un contexto de gran vulnerabilidad de los defensores de derechos humanos en Colombia.

### **Respuesta del Gobierno**

779. Mediante dos cartas fechadas 26 de septiembre de 2008, el Gobierno respondió a la carta de alegaciones. La carta comunicó que el Programa Presidencial de Derechos Humanos manifestó que los hechos relatados en la comunicación de la Relatora Especial coinciden plenamente con lo reportado por la Policía. Asimismo, la Fiscalía Cuarta de la Unidad de Indagación Preliminar de Buenaventura, adelanta la investigación por el delito de homicidio agravado de la Sra. Martha Cecilia Obando. No obstante, la Fiscalía Cuarta resalta la poca colaboración de los vecinos del barrio San Francisco, quienes son renuentes a entregar cualquier tipo de información que permita identificar e individualizar a los responsables del crimen. Por su parte, el Ministerio del Interior y de Justicia reportó que a la fecha de su muerte, la Sra. Obando no había elevado solicitud de protección alguna por lo cual no se tenía conocimiento de su situación de riesgo y vulnerabilidad y una vez se conocieron los hechos de su muerte, se puso en contacto con la familia de la víctima, con el fin de atender a implementar las medidas necesarias para su protección de acuerdo con la situación de riesgo particular de sus hijos. El Gobierno comunicó que estará atento al desarrollo de la investigación judicial de la cual informará oportunamente al Honorable Grupo.

### **Llamamiento urgente**

780. El 25 de julio de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Representante Especial sobre la promoción del derecho a la libertad de opinión y de expresión enviaron un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con la **Organización Femenina Popular (OFP)**, la **Corporación para la Defensa de los Derechos Humanos (CREDHOS)**, y los **Programas de Desarrollo y Paz (PDP)**. La OFP y CREDHOS fueron sujeto de seis y tres comunicaciones respectivamente de la anterior Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos. Las dos organizaciones también fueron sujeto de una comunicación enviada el 3 de julio de 2008 por la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, en relación con un anuncio amenazante supuestamente enviado a las organizaciones por las Águilas Negras. Hasta la fecha no se ha recibido ninguna respuesta a esta última comunicación.

781. De acuerdo con las informaciones recibidas, el 21 de julio de 2008, hombres que portaban capuchas y se movilizaban en motocicleta habrían estado distribuyendo panfletos en varios barrios de Barrancabermeja, Departamento de Santander. Estos panfletos habrían tenido la firma del Comandante de Héroes de Castaño y habrían anunciado el propósito de “tomar Barrancabermeja a sangre y fuego” para pacificarla a partir del 1 de julio de 2008. Asimismo, se habrían declarado objetivo militar a las organizaciones sociales que defienden los derechos humanos, la OFP, CREDHOS, y el PDP, así como grupos sindicales y el grupo paramilitar Águilas Negras. Los panfletos habrían señalado que la comunidad debía apoyar al movimiento o habría represalias en su contra.

782. Se expresó gran preocupación por el hecho que la OFP, CREDHOS, y el PDP hayan sido declaradas objetivo militar por su trabajo legítimo en defensa de los derechos humanos. Los panfletos amenazantes, así como los casos mencionados en comunicaciones anteriores, indicaban un entorno en extremo peligroso y amenazante para los defensores de los derechos humanos en Barrancabermeja, no obstante las medidas de protección adoptadas por el Gobierno. Se expresó por ello preocupación por la integridad física y psicológica de los integrantes de las organizaciones mencionadas.

### **Llamamiento urgente**

783. El 25 de julio de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Representante Especial sobre la promoción del derecho a la libertad de opinión y de expresión enviaron un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **José Arcos** y la Sra. **María Antonia Amaya**, dirigentes comunitarios y miembros del Consejo de Comunidades Negras de la Cordillera Occidental de Nariño (COPDICONC). El Sr. José Arcos también es Vice-presidente del Consejo Comunitario de la Municipalidad de Policarpa. Desde el 24 de junio de 2007, varios miembros del COPDICONC han sido beneficiarios de medidas cautelares ordenadas por la Comisión Interamericana de Derechos Humanos, después de haber sufrido actos de hostigamiento y amenazas

proferidas tanto por grupos armados paramilitares como por grupos guerrilleros que les acusan de colaboración con el grupo adversario.

784. De acuerdo con las informaciones recibidas, el 11 de julio de 2008, en horas de la mañana, el Sr. José Arcos y la Sra. María Antonia Amaya fueron secuestrados en un retén montado por elementos del grupo paramilitar denominado la Nueva Generación en la vereda de Santa Rosa, Municipalidad de Policarpa, y llevados con rumbo desconocido. Este grupo paramilitar tendría en su posesión una lista de todos los dirigentes comunitarios locales que son miembros del COPDICONC.

785. Se expresó preocupación que el secuestro del Sr. José Arcos y de la Sra. María Antonia Amaya podría estar directamente motivado por sus actividades de defensa de los derechos humanos, en particular de los derechos de su comunidad. En vista de estos hechos se expresó preocupación por la integridad física y psicológica de estas personas y de los otros miembros del COPDICONC. Estos secuestros se enmarcan en un contexto de gran vulnerabilidad de los defensores de derechos comunitarios en Colombia.

### **Carta de alegaciones**

786. El 18 de agosto de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos, el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y expresión, el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, y el Relator Especial sobre la cuestión de la tortura enviaron una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **Guillermo Rivera Fúquene**, anterior Presidente del Sindicato de Servidores Públicos de Bogotá (SINSR.VPUB). La presunta desaparición forzada del Sr. Guillermo Rivera Fúquene fue mencionada en un llamamiento urgente enviado por la Relatora Especial sobre la situación de los defensores de derechos humanos, el Relator Especial sobre la promoción y la protección del derecho a la libertad de opinión y de expresión, y el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias el 23 de mayo de 2008. Se recibió una respuesta del Gobierno fechada 5 de junio de 2008. Dicha respuesta contenía información sobre las medidas adoptadas por el Gobierno para poner fin a la impunidad, pero no mencionó el caso del Sr. Guillermo Rivera Fúquene. Desde entonces hemos recibido más información sobre el caso del Sr. Guillermo Rivera Fúquene.

787. Según las nuevas informaciones recibidas, el 22 de abril de 2008, aproximadamente a las 6.30 a.m., el Sr. Guillermo Rivera Fúquene habría sido detenido por una patrulla de la Policía Nacional. El 24 de abril se habría encontrado un cadáver, sin documentos de identidad y con signos de tortura, en un botadero de escombros. El 15 de julio de 2008, habrían enterrado este cadáver como persona sin identificación conocida (NN). Sin embargo, en una exhumación posterior ordenada por la Fiscal 49 de Ibagué, se habría identificado el cuerpo como el del Sr. Guillermo Rivera Fúquene. Se habrían descubierto signos de ahorcamiento, golpes en la cara y contusiones en varias partes del cuerpo. Se afirma también que 32 sindicalistas habrían sido asesinados durante 2008 en Colombia.

788. Se expresó preocupación que el asesinato del Sr. Guillermo Rivera Fúquene podría estar directamente relacionado con sus actividades legítimas en defensa de los derechos humanos en Colombia. También se expresó preocupación que este asesinato, de ser confirmado, se enmarcara en un contexto de gran peligro para los sindicalistas en Colombia.

### **Respuesta del Gobierno**

789. In a letter dated 22 August 2008, the Government responded to the urgent appeal of 18 July 2008 with a Statement which lamented the death of Sr. Guillermo Rivera Fúquene and reaffirming the Government's position of the promotion and protection of the right to freedom of expression and association and outlining some of the measures being adopted to address the situation.. The document stated that Government would hold a meeting with other trade union members concerning the freedom of trade unionists will improve the early-warning mechanism to protect trade unionists under threat and will increase protective measures for trade union members. They will also carry out an investigation into the death of Sr. Guillermo Rivera Fúquene.

### **Llamamiento urgente**

790. El 29 de agosto de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión enviaron un llamamiento urgente, señalando a la atención del Gobierno la información recibida en relación con las amenazas de muerte recibidas por las Sras. **Elizabeth Gómez, Luz Marina Arroyabe, Senaida Parra, y Andrea Abello**, y los Sres. **Yimmi Jansasoy, Fabio Ariza, Carlos Torres, y Eduard Mina**, todos miembros de la Comisión Intereclesial de Justicia y Paz (CIJP). La CIJP trabaja con comunidades en las cuencas de Curbaradó y Jiguamiandó, Departamento de Chocó, para defender sus derechos a la tierra a través de medidas pacíficas.

791. El 4 de octubre de 2007, la entonces Representante Especial del Secretario General envió un llamamiento urgente al Gobierno en relación con un ataque contra miembros de la CIJP en Curbaradó. Se recibió la respuesta del Gobierno el 10 de enero de 2008. También, el 3 de abril de 2008, la entonces Representante Especial del Secretario General envió al Gobierno un llamamiento urgente en relación con amenazas de muerte contra los Sres. Yimmi Jansasoy, Eduard Mina y otros miembros de la CIJP. Todavía no se ha recibido una respuesta del Gobierno a este llamamiento urgente.

792. De acuerdo con las nuevas informaciones recibidas, el 24 de agosto de 2008, aproximadamente a las 11h55, una mujer habría llamado telefónicamente a la CIJP en Curbaradó mientras se encontraban celebrando una reunión. Habría dicho "Hablan las Águilas Negras. Es mejor que salgan de la zona; están vigilados, deben salir ya." Aproximadamente a las 12h29, habría habido otra llamada del mismo número al número



del teléfono móvil de la CIJP en Bogotá diciendo “Saquen ya a esos muchachos de la zona”.

793. El 25 de agosto de 2008, aproximadamente a las 18h55, se registró otra llamada profiriendo amenazas de muerte en el teléfono móvil de la CIJP en Curbaradó. Esta vez un hombre habría dicho “Con militares o sin militares, los vamos a matar” antes de colgar inmediatamente. El mismo día se habrían denunciado las amenazas a las autoridades colombianas.

794. Se expresó preocupación que estas amenazas de muerte contra miembros de la CIJP estuvieran relacionadas con sus actividades legítimas en la defensa de los derechos a la tierra de las comunidades en las cuencas de Curbaradó y Jiguamiandó. Se expresó gran preocupación por la integridad física y psicológica de estos defensores de los derechos humanos. Estas amenazas se enmarcan en un contexto de gran vulnerabilidad de los miembros de la CIJP en esta región de Colombia.

### **Llamamiento urgente**

795. El 3 de septiembre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con la intimidación sufrida por miembros de la **Comisión Colombiana de Juristas (CCJ)**. Por medios jurídicos, la CCJ busca el respeto de los derechos humanos en Colombia. En el marco de la ley 975 de 2005, la CCJ representa a 51 víctimas de crímenes de lesa humanidad perpetrados por paramilitares que incluyen asesinatos, tortura, desaparición forzada, usurpación y despojo de tierras, así como desplazamiento forzado.

796. De acuerdo con las informaciones recibidas, el 25 de junio de 2008, tres hombres cuyas identidades son conocidas habrían intimidado a miembros de la CCJ mientras éstos se encontraban en una reunión con víctimas de violaciones de derechos humanos de Blanquicet, municipio de Turbo, departamento de Antioquia. Los hombres habrían dicho en tono amenazador que no querían que se volviera a generar la violencia en la zona de Urabá por el problema de tierras. Por consiguiente, la CCJ habría interrumpido su actividad con sus clientes, temiendo una falta de seguridad.

797. Dos de los tres hombres que habrían proferido las amenazas a la CCJ también habrían amenazado a un cliente de la CCJ en junio de 2008. Al visitarle en su casa, le habrían dejado fotocopias de documentos legales suscritos por las 51 víctimas de violaciones de derechos humanos que la CCJ representaba, y le habrían advertido de los riesgos que corrían los que les llamaban paramilitares en vez de empresarios. Aparte de eso, la esposa de uno de ellos habría demandado la prescripción agraria de un predio contra un campesino antes de que éste fuera matado a tiros el 20 de julio de 2008.

798. Se expresó preocupación que la intimidación contra los miembros de la CCJ podría estar directamente relacionada con su trabajo legítimo en la defensa de los derechos humanos de los campesinos de Blanquicet, y que, a raíz de dicha intimidación,

los miembros de la CCJ no se sienten bastante seguros para realizar su trabajo. Se expresó preocupación por la integridad física y psicológica de los miembros de la CCJ. Además, se alega que los actos de intimidación contra ellos, así como el asesinato de y las amenazas contra campesinos de Blanquicet, forman parte de la expansión criminal de los paramilitares a partir de su estrategia de usurpación y despojo de tierras conocida como “la retoma de Urabá”.

### **Llamamiento urgente**

799. El 5 de septiembre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos y la Relatora Especial sobre la violencia contra la mujer enviaron un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con un ataque contra la Sra. **Luisa Fernanda Malo Rodríguez**, integrante de la Fundación Esperanza y Dignidad. Esta organización defiende los derechos humanos de las mujeres y las niñas.

800. La Sra. Luisa Fernanda Malo Rodríguez supuestamente se ha visto obligada a desplazarse a diferentes regiones de Colombia a raíz de amenazas en su contra. Según se nos informa, las Águilas Negras la han declarado objetivo militar, ha recibido amenazas telefónicas y por correo electrónico, y sus hijos también han sido amenazados.

801. De acuerdo con las informaciones recibidas, el 21 de agosto de 2008, la Sra. Luisa Fernanda Malo Rodríguez habría sido atacada por dos desconocidos en un parque en Bogotá cuando iba a una oficina de Bienestar Familiar para recoger unos documentos. Uno de los desconocidos la habría agarrado y habría presionado un arma de fuego contra su costado. Mientras tanto, el otro habría intentado pincharla con una aguja hipodérmica. El que llevaría el arma de fuego habría preguntado a la Sra. Luisa Fernanda Malo Rodríguez si quería morir allí cuando ésta habría intentado soltarse, y el otro la habría pinchado tres veces con la aguja, inyectándole un líquido desconocido. Los desconocidos la habrían empujado y le habrían advertido que le quedaban doce horas de vida. Luego la Sra. Luisa Fernanda Malo Rodríguez habría ido a un hospital donde habría recibido asistencia médica y psicológica.

802. Se expresó preocupación que el ataque y las amenazas contra la Sra. Luisa Fernanda Malo Rodríguez podrían estar relacionados con sus actividades legítimas en la defensa de los derechos humanos de las mujeres y las niñas. También se expresó preocupación por la integridad física y psicológica de la Sra. Luisa Fernanda Malo Rodríguez y la de su familia.

### **Llamamiento urgente**

803. El 17 de octubre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos, el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, y el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias enviaron un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con las amenazas contra **varios**

**sindicatos y organizaciones no gubernamentales y sus miembros.** Varios titulares de mandatos han enviado comunicaciones a su Gobierno respecto a estas organizaciones.

804. De acuerdo con las informaciones recibidas: el 16 de septiembre de 2008, un mensaje firmado por el grupo paramilitar Comando Carlos Castaño Vive (CCV) fue enviado al correo electrónico de la Asamblea Permanente de la Sociedad Civil por la Paz y al Movimiento Nacional de Víctimas (MOVICE). Dicho mensaje contendría amenazas contra miembros de la Central Unitaria de Trabajadores (CUT), en particular contra su Secretario General, el Sr. Domingo Tovar Arrieta; el Sindicato de Trabajadores de la Salud (ANTHOC); la Federación Nacional de Cooperativas Agrarias (FENACOA); la Corporación Reiniciar, la Asociación para la Promoción Social Alternativa Minga; la Asociación Solidaria Andas, y la Corporación Colectivo de Abogados “José Alvear Restrepo”; la Fundación Comité de Solidaridad con los Presos Políticos (FSCSPP); y la Unión Sindical Obrera de la Industria del Petróleo (USO), en particular contra el Sr. Rodolfo Vecino Acevedo, miembro de la Junta Nacional de la USO, el Sr. Hernando Hernández, el antiguo Presidente de la USO, los Sres. Nelson Berrio y Rafael Cabarcas, antiguos líderes sindicales de la USO, y el Sr. Lenin Fernández, dirigente juvenil del Departamento del Cesar. El mensaje se habría referido al Sr. Lenin Fernández como “sentenciado a muerte”. Estas organizaciones habrían recibido amenazas de muerte durante años.

805. El 18 de septiembre de 2008, un email fue enviado a los correos electrónicos de ANTHOC y de la Federación Agraria (FENSUAGRO), organizaciones afiliadas a la CUT, firmado por Ernesto Báez, Amigos de Uribe por Colombia. El mensaje se habría referido a la CUT una “cuna de terroristas”, profiriendo amenazas contra esta organización, contra la USO, y contra los Sres. Angel Salas, Juan Mendoza, Miguel Bobadilla, Eberto Díaz, Luis Sandoval, Omar Hernández, Viviana Ortiz, Albeiro Betancourt, Álvaro Londoño, Yesid Camacho y Gilberto Martínez, todos líderes sindicales y defensores de los derechos humanos. El mismo día, la USO habría recibido por correo electrónico amenazas de muerte firmadas por el grupo paramilitar Águilas Carlos Castaño Vive (CCV). Las amenazas habrían sugerido que existen vínculos entre la USO y el brazo político de la guerrilla del Ejército de Liberación Nacional (ELN), diciendo “nosotros les recordamos las sentencias de muerte a los guerrilleros” y “todos caerán poco a poco como se lo merecen por guerrilleros”. El email habría amenazado a los Sres. Rodolfo Vecino Acevedo, Rafael Cabarcas, Nelson Berrio y Hernando Hernández en particular.

806. La situación de la USO resulta particularmente preocupante porque la organización habría recibido también varias coronas de condolencia, refiriéndose al Sr. Rodolfo Vecino Acevedo. Una habría llegado a la oficina de la USO en Barrancabermeja en 2007, y otras dos habrían llegado a la sede en Cartagena el 9 de septiembre de 2008. También dos servicios funerarios habrían llamado a la sede en Cartagena porque tenían más coronas para enviar, supuestamente a petición de una mujer no identificada.

807. Se expresa preocupación que las amenazas contra estas organizaciones, líderes sindicales y defensores de los derechos humanos podrían estar vinculadas con sus

actividades legítimas en la defensa de los derechos humanos. Se expresa gran preocupación por la integridad física y psicológica de los miembros de dichas organizaciones. Estos incidentes se enmarcan en un contexto de gran vulnerabilidad para los defensores de los derechos humanos en Colombia.

### **Llamamiento urgente**

808. El 29 de octubre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con varias personas y con varias organizaciones no gubernamentales (ONGs) que se dedican a la defensa de los derechos humanos. Éstas incluyen al Sr. **Héctor Mondragón**, defensor de los derechos de los pueblos indígenas, de los campesinos y de las comunidades afro-descendientes en Colombia; a la Sra. Christina Friederika Müller, una ciudadana alemana preocupada por la situación de los derechos humanos en el país y la Asociación para la Promoción Social Alternativa (MINGA).

809. Según la información recibida, el 29 de agosto de 2008, apareció en el diario El Tiempo un artículo titulado “Canadá y EE UU se unen en cacería a las FARC”. Se insinuaba en dicho artículo que el Sr. Héctor Mondragón estaba involucrado en conseguir recursos internacionales para apoyar a las FARC. No obstante, el Sr. Héctor Mondragón se opone a esta organización y ha siempre rechazado el recurso a la fuerza en sus actividades de defensa de los derechos humanos.

810. El 1 de septiembre de 2008, los noticieros televisivos habrían hecho referencia a un informe de inteligencia de los organismos de seguridad del Estado en el cual se afirmaría que la organización no-gubernamental MINGA forma parte de la red internacional de apoyo a las FARC, y que facilitaba la emigración a Canadá de miembros de las FARC y del ELN.

811. El 9 de septiembre de 2008, el Ministro de Defensa descalificó un informe compilado por varias ONGs sobre el aumento de ejecuciones extrajudiciales en Colombia, afirmando que ni él ni otros miembros del Gobierno habían sido nunca requeridos, consultados o entrevistados por los autores de dicho informe. El informe se basaría en las conclusiones de una misión internacional que visitó el país para examinar la cuestión de las ejecuciones extrajudiciales y que pudo entrevistarse con varios miembros del Gobierno. El Ministro de Defensa declaró que el informe de las ONGs tenía el propósito de deslegitimar el trabajo que está llevando a cabo el Gobierno, sobre todo los esfuerzos por disminuir el número de ejecuciones extrajudiciales. Estas declaraciones aparecerían en la página Web del Ministerio de Defensa.

812. El 1 de octubre de 2008 fue expulsada del país la ciudadana alemana Christina Friederika Müller, Magíster en comunicación e investigadora, quien fue invitada a Colombia por varias organizaciones de la Red de Hermandad y Solidaridad con Colombia, para investigar la situación de los derechos humanos en el país.

813. Se expresa preocupación por el hecho de que estos actos de hostigamiento contra defensores de los derechos humanos estén relacionados con las actividades legítimas que desarrollan en defensa de estos derechos. Se expresa también preocupación de que los hechos alegados se enmarquen en un contexto mayor de hostigamiento contra los defensores de los derechos humanos en Colombia, incluso por parte de altas autoridades del Estado. Se reconoce y agradece al mismo tiempo las medidas que se han adoptado para otorgar protección física a algunos defensores de los derechos humanos.

### **Llamamiento urgente**

814. El 25 de noviembre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con la **Asociación Juvenil y Estudiantil Regional (ASOJER), la Asociación Departamental de Usuarios Campesinos (ADUC), la Asociación Amanecer de Mujeres por Arauca (AMAR), la Asociación de Desplazados de la Central Unitaria de Trabajadores Subdirectiva Arauca, y la Fundación Comité Regional de Derechos Humanos Joel Sierra**, todas las cuales son organizaciones sindicalistas o defensoras de los derechos humanos del municipio de Saravena, Arauca.

815. Según las informaciones recibidas, el 19 de noviembre de 2008, durante la noche, un hombre todavía sin identificar habría dejado un explosivo de bajo impacto en el edificio “Hector Alirio Martínez”. En este edificio se ubican las sedes de las organizaciones mencionadas arriba.

816. Se expresa preocupación que el ataque contra estas organizaciones podría estar relacionado con su trabajo en la defensa de los derechos humanos. Se expresa gran preocupación por la integridad física y psicológica de los miembros de estas organizaciones.

### **Llamamiento urgente**

817. El 9 de diciembre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos, el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y el Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria enviaron un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **Carmelo Agamez**, secretario técnico del Movimiento Nacional de Víctimas de Crímenes de Estado (MOVICE), una organización no gubernamental que trabaja con los parientes de varias víctimas que murieron durante el conflicto armado en Colombia. El Sr. Carmelo Agamez y MOVICE han expuesto supuestos vínculos entre los oficiales públicos y grupos paramilitares de la región. Supuestamente a causa de su trabajo, el Sr. Carmelo Agamez ha recibido varias amenazas de muerte de grupos paramilitares.

818. El 10 de noviembre de 2006 la entonces Representante Especial del Secretario-General sobre la situación de los defensores de los derechos humanos y el entonces

Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión enviaron un llamamiento urgente en relación con las supuestas amenazas de muerte contra el Sr. Carmelo Agamez y otros miembros del Movimiento Nacional de Víctimas de Crímenes de Estado. Se agradece la respuesta de su Gobierno, recibida el 26 de febrero de 2007.

819. De acuerdo con las nuevas informaciones recibidas, el 13 de noviembre de 2008, la casa del Sr. Carmelo Agamez habría sido allanada por cinco hombres vestidos de civil que no habrían llevado una orden de captura o de allanamiento. El 15 de noviembre de 2008, el Sr. Carmelo Agamez se habría dirigido a la oficina del fiscal de Sincelejo donde le habrían detenido bajo la custodia de la policía de investigación judicial (SIJIN). Le habrían trasladado a la prisión La Vega en Sincelejo donde se encontraría ahora, detenido en el patio 2 con líderes paramilitares y oficiales públicos. Habría sido acusado por el fiscal de Sincelejo de rebelión y conspiración a cometer crímenes con grupos paramilitares en una reunión en 2002. Antes de su arresto, el Sr. Carmelo Agamez habría acusado al alcalde de San Onofre, departamento de Sucre, de corrupción.

820. No habrían informado al Sr. Carmelo Agamez de los cargos en su contra durante varios días después de su detención. La única evidencia utilizada contra el Sr. Carmelo Agamez habría sido el testimonio no corroborado de dos personas. Uno de los testigos no sería imparcial por ser esposa de un alcalde recientemente acusado de corrupción después del descubrimiento de sus vínculos con grupos paramilitares por parte del Sr. Carmelo Agamez y MOVICE.

821. Se expresa preocupación que la detención del Sr. Carmelo Agamez podría estar relacionada con sus actividades en la defensa de los derechos humanos, en particular su trabajo para exponer las violaciones de los derechos humanos cometidas por grupos paramilitares y la corrupción de oficiales públicos vinculados a estos grupos. Se expresa gran preocupación por la integridad física y psicológica del Sr. Carmelo Agamez.

### **Observaciones**

822. La Relatora Especial agradece las respuestas detalladas que el Gobierno de Colombia ha proporcionado y expresa su satisfacción por el hecho de que se hayan iniciado investigaciones en varios de los casos por ella mencionados. Asimismo, expresa su satisfacción por los procesos de protección que se han iniciado en varios casos. La Relatora Especial agradece la invitación extendida por el Gobierno para llevar a cabo una visita al país durante el año 2009 e informa que está considerando seriamente la invitación.

823. De otro lado, la Relatora Especial lamenta que al momento de finalización del presente informe no había recibido respuesta a sus comunicaciones de 3 de abril de 2008, 14 de abril de 2008, 21 de abril de 2008, 6 de junio de 2008, 2 de julio de 2008, 25 de julio de 2008, 29 de agosto de 2008, 29 de octubre de 2008, 25 de noviembre de 2008 y de 9 de diciembre de 2008.

824. Asimismo, la Relatora Especial insta al Gobierno a que proporcione informaciones adicionales y resultados concretos de las investigaciones mencionadas en las respuestas enviadas, incluyendo las medidas que se hayan impuesto para sancionar a los responsables y para indemnizar a los familiares de las víctimas.

825. La Relatora Especial reitera su preocupación por las violaciones contra el derecho a la vida y la integridad física (tanto asesinatos como amenazas de muerte, así como las desapariciones forzadas) y los actos de acoso e intimidación contra defensores de derechos humanos de Colombia.

826. La Relatora Especial expresa también su grave preocupación por actos de hostigamiento que se han llevado a cabo desde hace varios años contra los miembros de sindicatos y agradecería recibir del Gobierno una respuesta sobre las acciones emprendidas para proteger los derechos de los integrantes de sindicatos en el país.

### **Congo (Republic of the)**

#### **Lettre d'allégations**

827. Le 23 janvier 2008, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une lettre d'allégations sur M. **Roger Bouka Owoko**, directeur exécutif de l'organisation non-gouvernementale de défense des droits de l'homme l'Observatoire Congolais des Droits de l'Homme (OCDH).

828. Selon les informations reçues; le 11 janvier 2008, M. Roger Bouka Owoko aurait été convoqué à la Direction générale de la police nationale suite à la publication par l'OCDH, le 8 janvier 2008, d'un communiqué de presse intitulé "Elections locales et municipales : la mise en place d'une commission électorale indépendante et la refonte du fichier électoral s'imposent". Dans ce document, transmis aux membres du gouvernement, aux institutions publiques et aux missions diplomatiques en République du Congo, l'OCDH demandait la refonte du fichier électoral par le biais d'un recensement administratif spécial et le report des élections locales et municipales, prévues le 20 janvier 2008, afin de permettre la création d'une commission électorale indépendante composée de membres des différents partis politiques, de l'administration et de la société civile.

829. Lors de cette convocation, les collaborateurs du Général Jean François Ndengue, lui-même présent, se seraient attardés sur le caractère politique des organisations de la société civile et auraient reproché à l'OCDH son intérêt pour les questions d'ordre politique qui, selon eux, n'auraient rien à voir avec la promotion et la défense des droits de l'homme. Ils auraient également fait comprendre à M. Bouka Owoko que le jour où ils établiraient la preuve de "collusions entre l'OCDH, l'opposition et les puissances étrangères pour déstabiliser le Congo, ils prendr[aient] leurs responsabilités". Enfin, le Général Ndengue et ses collaborateurs auraient menacé de sévir "si l'OCDH faisait de la politique".

830. Des craintes étaient exprimées quant au fait que la convocation de M. Roger Bouka Owoko à la Direction générale de la police nationale et les intimidations subséquentes puissent être liées à ses activités de défense des droits de l'homme au sein de l'OCDH.

### **Observations**

831. La Rapporteuse spéciale regrette, au moment de la finalisation du présent rapport, l'absence de réponse aux communications en date du 16 janvier 2007 et 23 janvier 2008 et exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celles-ci.

## **Croatia**

### **Letter of allegations**

832. On 21 November 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations concerning Mr **Ivo Pukanic**, a prominent journalist and owner of the NCL Media Group in Zagreb and Mr **Niko Franjic**, marketing executive of the weekly newspaper, Nacional, published by NCL. Nacional is an investigative paper that often exposes alleged corruption and human rights abuses in Croatia.

833. According to the information received, on 23 October 2008, at approximately 6.20pm, Mr Ivo Pukanic and Mr Niko Franjic were killed in a car bomb. The explosive device went off as the two men got into Mr Pukanic's car which was parked in front of the offices of the NCL Media Group in the centre of Zagreb. Two other Nacional staff members, who were in the parking lot at the time, were injured in the blast.

834. Previously, in April 2008, Mr Pukanic escaped injury in an assassination attempt, when an unidentified individual carrying a gun approached him on the street in front of his apartment. The assailant reportedly threatened to kill Mr Pukanic before firing a shot at him. Mr Pukanic was under police protection at the time, however this was later suspended in August. Mr Pukanic apparently complained about threats he had been receiving since 2002. A police investigation has reportedly been launched into the killing of Mr Ivo Pukanic and Mr Niko Franjic. However as yet no-one has claimed responsibility for the attack, and the motive of the killing remains unclear.

835. Concern was expressed that the aforementioned events may represent a direct attempt to prevent independent reporting in Croatia, thus stifling freedom of expression in the country.

### **Urgent appeal**



836. On 2 December 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations concerning Mr **Drago Hedl**, a prominent journalist and columnist with the Croatian daily newspaper *Jutarnji List*. Mr Hedl mainly conducts investigative reporting on alleged war crimes committed during the 1991-1995 civil war in the former Yugoslavia, particularly those in the Osijek area. He has received numerous international awards for his work on transitional justice in Croatia.

837. According to information received, on 27 November 2008, Mr Hedl received a text message on his mobile phone, which contained serious death threats. Mr Hedl reported the incident to the police and has been granted 24 hour police protection.

838. Mr Hedl has been the victim of at least four death threats since 2005, including in February 2008, when he received a letter accompanied by a photograph of a human skull, warning him to be “silent”. Mr Hedl received the letter a few days after he had written articles in the *Feral Tribune* magazine about a Croatian general, Mr Branimir Glavas, suspected of having been responsible for the killing of Croatian Serb civilians in Osijek in 1991. In one of his most recent articles published in *Jutarnji List*, Mr Hedl returned to the case of Mr Glavas, who was elected as a Member of Parliament in the November 2007 legislative elections. He also gave evidence at the opening of the trial of Mr Glavas in 2005.

839. While there has apparently been some progress in the investigation concerning the most recent threat against Mr Hedl, it seems that only one of the previous investigations of death threats issued against him and his family resulted in a prosecution.

840. Concern was expressed for the physical and psychological integrity of Mr Hedl, particularly in light of reports of ongoing harassment and threats against journalists, including recent events which claimed the lives of journalists Mr Ivo Pukanic and Mr Niko Franjic. Further concern was expressed that the aforementioned events may be related to Mr Hedl’s involvement in investigating cases of alleged war crimes and may represent a direct attempt to prevent independent reporting in Croatia, thus stifling freedom of expression in the country.

### **Response from the Government**

841. In a letter dated 3 February 2009, the Government responded to the communication sent on 2 December 2008. The Government reported that the Police Directorate of the Republic of Croatia, in coordination with the Osijek-Baranja Police Department and the Zagreb Police Department, had completed the criminal investigation into the criminal offence of threat, sanctioned in Article 129 of the Criminal Code, committed against Mr Drago Hedl. Mr Hedl reported the threat on 27 November 2008 to the Osijek-Baranja Police Department, stating that he received a death threat by SMS on his mobile phone. The report was forwarded to the Municipal Public Prosecutor in Osijek, and the subsequent criminal investigation showed that the perpetrator of the offence was a Croatian citizen, a police officer working for the Zagreb Police

Department. During the criminal investigation it was found that the motive of the offence was not to jeopardize the personal safety of Mr Hedl, but an attempt by the perpetrator to draw attention to himself due to the dissatisfaction with his status issues. A criminal application was filed against the suspect with the Municipal Prosecutor in Osijek for the criminal offence of threat sanctioned in Article 129 of the Criminal Code, and the suspect was suspended from his work as a police officer, and disciplinary proceedings were also instituted against him. The Police convened a special press conference on 4 December 2008 to announce the findings of the criminal investigation to the public.

### **Observations**

842. The Special Rapporteur wishes to thank the Government of Croatia for the detailed and satisfactory response provided to the communication of 2 December 2008, regarding Mr Drago Hedl.

843. The Special Rapporteur regrets however, that at the time of the finalization of the present report, no response had been transmitted regarding the letter of allegations sent on 21 November 2008. The Special Rapporteur reiterates her concern that the killing of Mr Ivo Pukanic and Niko Franjic may represent a direct attempt to prevent independent reporting in Croatia, thus stifling freedom of expression in the country, and urges the Government to transmit any information regarding the investigation and prosecution into this case.

## **Cuba**

### **Carta de alegaciones**

844. El 21 de diciembre de 2007, la Representante Especial envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con los Sres. **Juan Bermúdez Toranzo, Osmar Osmani Balmán del Pino, José Luis Rodríguez Chávez y William Cepero**. El Sr. Juan Bermúdez Toranzo es Vicepresidente nacional de la Fundación Cubana de Derechos Humanos; el Sr. Osmar Osmani Balmán del Pino es delegado de la Fundación Cubana de Derechos Humanos del Municipio de San Miguel del Padrón; el Sr. José Luis Rodríguez Chávez es Vicepresidente de la Fundación Cubana de Derechos Humanos en Ciudad de La Habana, y William Cepero es Presidente de la Fundación Cubana de Derechos Humanos en el Municipio Habana Vieja.

845. Según las informaciones recibidas; el 21 de noviembre de 2007, aproximadamente a las 9:00 pm, los Sres. Juan Bermúdez Toranzo, Osmar Osmani Balmán del Pino, José Luis Rodríguez Chávez, y William Cepero habrían sido detenidos por más de 30 oficiales de la Policía Nacional y de la Seguridad del Estado cubano. Los oficiales habrían entrado violentamente en el lugar de residencia del Sr. Juan Bermúdez Toranzo, en el barrio de Cambute, en el municipio de San Miguel del Padrón, donde las personas mencionadas hacían una huelga de hambre para pedir la libertad de los presos políticos en Cuba. Los agentes habrían ocasionado daños en el interior de la residencia, incluso a los muebles,

antes de arrastrar al Sr. Juan Bermúdez Toranzo y obligarle a subir en un vehículo de patrulla. En este momento, el Sr. Juan Bermúdez Toranzo llevaba puesto sólo shorts y llevaba a su hijo de 2 años con él.

846. Posteriormente, las personas mencionadas habrían sido trasladadas a la Oncena Unidad de San Miguel del Padrón, en la Ciudad de La Habana, donde posteriormente habrían sido liberadas, a excepción del Sr. Juan Bermúdez Toranzo, quien habría iniciado una huelga de hambre el 21 de noviembre de 2007. Además, se informa que agentes de la Seguridad del Estado habrían advertido a su esposa, la Sra. Nery Castillo, de buscar un abogado lo antes posible, porque estaban preparando expedientes acusatorios contra los detenidos. Se alegó también, que miembros de la Policía Nacional habrían abusado físicamente de cinco familias de los detenidos que se encontraban presentes en el lugar el 21 de noviembre de 2007.

847. Se temía que la detención de los mencionados defensores de derechos humanos pueda estar relacionada con sus actividades en defensa de derechos humanos en Cuba. Se expresó profunda preocupación por la integridad física y psicológica de todos los mencionados, en particular del Sr. Juan Bermúdez Toranzo.

### **Respuesta del Gobierno**

848. Mediante cartas fechadas 15 de enero de 2008 y 11 5 de marzo de 2008, el Gobierno proporcionó información en cuanto al llamamiento urgente del 21 de diciembre de 2007. El Gobierno informó de que ninguno de los ciudadanos mencionados en el llamamiento urgente ha sido objeto de violación alguna de sus derechos humanos. Las alegaciones en la comunicación son falsas. A los ciudadanos mencionados, no se les han cortado su derecho a la libertad de opinión y expresión, ni al derecho ejercicio de su derecho a promover y procurar la protección y realización de los derechos humanos y las libertades fundamentales. Es falso que las autoridades han interrumpido violentamente en la residencia del Sr. Juan Bermúdez Toranzo, o que hayan agredido o atentado contra la integridad física o psíquica de los referidos ciudadanos o sus familiares. También constituye una calumnia la alegación de que los agentes del orden hayan ocasionado daños en el interior de la vivienda del Sr. Bermúdez. La organización a la que se alega que pertenecerían los ciudadanos referidos en la comunicación la llamada Fundación Cubana de Derechos Humanos, no consta en los registros oficiales ni existe constancia alguna de su existencia. No existe presos de la categoría “presos políticos” en Cuba. Ningún ciudadano es condenado a prisión en virtud de sus ideas o posiciones políticas.

849. La carta del 5 de marzo de 2008 informó que el 21 de noviembre del 2007, bajo los efectos de la ingestión de bebidas alcohólicas, el Sr. Juan Bermúdez Toranzo, acompañado de otros ciudadanos, protagonizó actos contra el orden público, afectando las paredes de una farmacia y un hostel. Posteriormente, este mismo grupo, se trasladó al domicilio del Jefe del Sector de la Policía Nacional Revolucionaria, quien se encontraba con su esposa y su hija. Al llegar al lugar golpearon las puertas, y amenazaron al agente del orden y a su familia. Ese mismo día, Sr. Bermúdez Toranzo, salió al exterior de su residencia para gritar ofensas y provocar nuevas alteraciones al orden público. Frente a

dicha conducta, los agentes del orden lo condujeron a la Unidad de Investigación Criminal y Operaciones donde le aplicó la medida de prisión preventiva, la que cumple en el establecimiento penitenciario de Valle Grande, teniendo en cuenta sus amplios antecedentes delictivos. Se le imputan cargos por los delitos de Atentado y Resistencia.

850. La carta reiteró a la Representante Especial del Secretario General para los defensores de derechos humanos el testimonio de su consideración.

### **Carta de alegaciones**

851. El 7 de abril de 2008 la Representante Especial de defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión enviaron una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con un grupo de mujeres, miembros del grupo **Las Damas de Blanco**, una organización de familiares de disidentes políticos encarcelados.

852. Según las informaciones recibidas, el 15 de marzo de 2008, las mujeres del colectivo Las Damas de Blanco habrían organizado una manifestación pacífica contra la encarcelación de sus familiares. Según se informa, mientras las mujeres de la organización recorrían de manera pacífica la calle G de la avenida 23 y Universidad de la Habana, habrían sido agredidas en varias ocasiones por individuos que les habrían insultado, llamándolas “terroristas”, “prostitutas”, “asesinas”, “mercenarias” y “bastardas”. Se ha alegado que estas personas agresoras pertenecerían a grupos paramilitares conocidos como “porristas” o serían personas controladas por dichas tropas.

853. Se alegó que el hostigamiento e intimidación sufridos por las mujeres del colectivo Las Damas de Blanco pudieran estar directamente relacionados con sus actividades en defensa de los derechos humanos, en particular, su ejercicio pacífico del derecho a libertad de expresión. Asimismo, se expresó preocupación por la integridad física y psicológica de las mujeres del colectivo Las Damas de Blanco.

### **Respuesta del Gobierno**

854. Mediante carta fechada 16 de Mayo de 2008 el Gobierno de Cuba respondió a la carta de alegaciones. El Gobierno rechazó las alegaciones incluidas en la carta de alegaciones e informó que las Damas de Blanco no constituyen una asociación u organización alguna. Según el Gobierno, Las Damas de Blanco es una creación de los servicios especiales de Estados Unidos, que opera bajo instrucciones y con el financiamiento que recibe de modo directo de la Sección de Intereses de los Estados Unidos de América en La Habana.

855. El Gobierno informó de que en Cuba no hay prisioneros políticos. Los familiares de las señoras de Las Damas en Blanco no fueron juzgados o sancionados por el disfrute de alguno de los derechos humanos reconocidos en la Declaración Universal. Ellos se encuentran en prisión, en cumplimiento de sentencias firmes de los tribunales cubanos y

luego de haber sido procesados con todas las garantías del debido proceso, por haber incurrido en graves hechos constitutivos de delitos, actuando como asalariados de la potencia extranjera que viola mas elementales derechos del pueblo cubano. El Gobierno manifestó que son falsas las alegaciones de supuestos hostigamientos, intimidaciones, insultos y agresiones. Ninguna de las mujeres ha sido objeto de violación alguna a sus derechos humanos.

### **Carta de alegaciones**

856. El 30 de abril de 2008, la Representante Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión enviaron una carta de alegaciones al Gobierno de Cuba señalando a la atención urgente la información que habían recibido en relación con el **Sr. Juan Bermúdez Toranzo**. El Sr. Juan Bermúdez Toranzo fue el objeto de una comunicación dirigida al Gobierno de Cuba con fecha de 21 de diciembre de 2007 de la Representante Especial del Secretario-General para los defensores de los derechos humanos. La Representante Especial agradece al Gobierno las respuestas proporcionadas el 15 de enero de 2008 y el 5 de marzo de 2008.

857. Según las nuevas informaciones recibidas el 4 de marzo de 2008, en el marco de un juicio cerrado al público, el Sr. Juan Bermúdez Toranzo habría sido condenado a 4 años y seis meses de prisión por tres delitos de atentados contra el jefe del sector policial, la esposa e hija de éste.

858. Anteriormente, el 28 de febrero de 2008, el Tribunal de La Lisa había condenado al Sr. Juan Bermúdez Toranzo a seis meses de privación de libertad “por daños a la propiedad estatal por la destrucción de un bombillo en la prisión”. Este juicio se habría llevado a cabo sin la presencia de abogados.

859. En cuanto a la situación carcelaria, el Sr. Juan Bermúdez Toranzo no recibiría la atención médica apropiada en la cárcel, a pesar de padecer una duodenitis crónica. Además, el Sr. Juan Bermúdez Toranzo habría recibido presiones por parte de las autoridades carcelarias con el fin de obligarlo a participar en actividades políticas contrarias a sus opiniones.

860. Según las informaciones recibidas, altos oficiales de la Seguridad del Estado habrían intentado convencer a la esposa del Sr. Bermúdez Toranzo, la Sra. Nery Castillo, de abandonar una protesta que consistiría en permanecer en silencio, junto con otras 20 personas, frente a la unidad de policía Aguilera, ubicada en la barriada de Lawton, del municipio Capitalino 10 de octubre, donde se supone que se encuentra detenido actualmente el Sr. Juan Bermúdez Toranzo. Tras su rechazo, la Sra. Nery Castillo habría sido amenazada con quitarle sus dos hijos y enviarlos a un centro del gobierno.

861. Se teme que estos eventos puedan estar relacionados con la actividad en defensa de los derechos humanos del Sr. Juan Bermúdez Toranzo. Además, se expresa preocupación por su integridad física y psicológica, así como la de su familia.

## Respuesta del Gobierno

862. Mediante carta fechada 16 de junio de 2008, el Gobierno respondió a esta carta de alegaciones. El Gobierno rechazó las alegaciones incluidas en la carta de alegaciones e informó que carecen totalmente de fundamento. Explica que el Sr. Juan Bermúdez Toranzo fue juzgado por un tribunal competente e independiente; que fueron observadas todas las normas del debido proceso, incluyendo el derecho a la defensa de un abogado y que es falso pretender que su enjuiciamiento se debió a su supuesta actividad relacionada con la defensa de los derechos humanos. Asimismo, se informó de que las alegaciones referidas a una supuesta amenaza contra la esposa del Sr. Bermúdez Toranzo son falsas. El Gobierno informó de que las alegaciones relacionadas con la situación carcelera son inciertas; de que a los reclusos se les garantiza la protección, la seguridad y la atención medical.

## Carta de alegaciones:

863. El 19 de mayo de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión enviaron una carta de alegaciones al Gobierno de Cuba señalando a la atención urgente la información que habían recibido en relación con un grupo de mujeres, miembros del colectivo **Las Damas de Blanco**, una organización de familiares de disidentes políticos encarcelados. La organización Las Damas de Blanco fue sujeto de una comunicación dirigida al Gobierno de Cuba con fecha de 7 de abril de 2008, de la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y del Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión.

864. Según las informaciones recibidas, el 21 de abril de 2008, miembros de la organización Las Damas de Blanco, incluyendo a las Sras. **Laura Pollán, Berta Soler, Dolia Leal, Alejandrina García y Noelia Pedraza** habrían sido maltratadas por agentes policiales tras una protesta pacífica llevada a cabo en la Plaza de la Revolución en La Habana.

865. Luego de dos horas de llevar a cabo la protesta contra el mantenimiento en detención de sus familiares, agentes policiales y miembros de la Seguridad cubana dispersaron la manifestación de mujeres haciendo uso de la fuerza. Los agentes policiales introdujeron a las manifestantes en un autobús estacionado a unos 100 metros del lugar donde se encuentran las sedes del Ministerio de las Fuerzas Armadas y del Ministerio del Interior.

866. Las Sras. Berta Soler y Sra. Noelia Pedraza se habrían resistido a ser detenidas y fueron arrastradas sobre el pavimento hasta que fueron puestas de pie. Este acto de fuerza les habría producido magulladuras en brazos y espaldas. El autobús las condujo a sus respectivos domicilios. Durante el trayecto los agentes policiales no les hicieron ninguna pregunta.

867. Se alegó que los actos de hostigamiento e intimidación sufridos por las mujeres del colectivo Las Damas de Blanco pudieran estar directamente relacionados con sus actividades en defensa de los derechos humanos, en particular, su ejercicio pacífico del derecho a la libertad de expresión. Asimismo, se expresó preocupación por la integridad física y psicológica de las mujeres de este colectivo.

### **Respuesta del Gobierno**

868. Mediante carta fechada 26 de mayo de 2008 el Gobierno de Cuba transmitió información en relación con la carta de alegaciones. El Gobierno rechazó nuevamente las alegaciones incluidas en la carta de alegaciones e informó que Las Damas de Blanco no constituye una asociación u organización alguna. Según el Gobierno, Las Damas de Blanco es una creación de los servicios especiales de Estados Unidos, que opera bajo instrucciones y con el financiamiento que recibe de modo directo de la Sección de Intereses de los Estados Unidos de América en La Habana.

869. El Gobierno informó de que en Cuba no hay prisioneros políticos. Los familiares de las señoras de Las Damas en Blanco no fueron juzgados o sancionados por el disfrute de alguno de los derechos humanos reconocidos en la Declaración Universal. Ellos se encuentran en prisión, en cumplimiento de sentencias firmes de los tribunales cubanos y luego de haber sido procesados con todas las garantías del debido proceso, por haber incurrido en graves hechos constitutivos de delitos, actuando como asalariados de la potencia extranjera que viola mas elementales derechos del pueblo cubano. El Gobierno manifestó que son falsas las alegaciones de supuestos hostigamientos, intimidaciones, insultos y agresiones. Ninguna de las mujeres ha sido objeto de violación alguna a sus derechos humanos.

### **Carta de alegaciones**

870. El 8 de julio de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión enviaron una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. **Laura Pollán Toledo**, líder del colectivo Las Damas de Blanco, una organización de familiares de disidentes políticos encarcelados. La Sra. Laura Pollán Toledo es la esposa del Sr. Héctor Maseda Gutiérrez, periodista independiente condenado a 20 años de cárcel.

871. La organización Las Damas de Blanco fue sujeto de dos comunicaciones dirigidas al Gobierno de Cuba con fecha de 7 de abril de 2008 y 19 de mayo de 2008, de la entonces Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y del Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión. Recibimos respuestas del Gobierno acerca de las dos comunicaciones el 16 de mayo y el 26 de mayo de 2008 respectivamente.

872. Según las informaciones recibidas, el 1 de julio de 2008, la Sra. Pollán Toledo habría denunciado actos de hostigamiento por parte de agentes del Estado. Habría afirmado que no podía salir de su casa sin que agentes de la policía la siguieran y la vigilaran. Se habría instalado una cámara de seguridad cerca de su casa y la oficina central de las Damas de Blanco.

873. Se alegó que los supuestos actos de hostigamiento contra la Sra. Laura Pollán Toledo podían estar directamente relacionados con sus actividades en defensa de los derechos humanos, en particular, su ejercicio pacífico del derecho a la libertad de expresión. Asimismo, se expresó preocupación por la integridad física y psicológica de la Sra. Laura Pollán Toledo y de las mujeres miembros de las Damas de Blanco.

### **Respuesta del Gobierno**

874. Mediante carta fechada 22 de julio de 2008, el Gobierno de Cuba respondió a la carta de alegaciones. Dado que ya había contestado a dos llamamientos anteriores relacionados con las Damas de Blanco, el Gobierno expresó su preocupación de que, al parecer, sus respuestas no habían sido debidamente tomadas en consideración. Reiteró la falsedad de los hechos referidos por las tres comunicaciones sobre las Damas de Blanco y afirmó que este grupo no constituía una asociación u organización alguna sino una creación de los servicios especiales de Estados Unidos, que opera bajo instrucciones y con el financiamiento que recibe de modo directo de la Sección de Intereses de los Estados Unidos (SINA) en La Habana. Así trabaja para subvertir el orden constitucional legítimamente establecido en Cuba.

875. El Gobierno afirmó que la Sra. Laura Pollán Toledo nunca ha sido víctima de hostigamiento ni persecución por parte de agentes del Estado o la policía. Por el contrario, en ocasiones, los agentes estatales se han visto obligados a intervenir para proteger a la Sra. Pollán y a otras integrantes del grupo de las Damas de Blanco ante ciudadanos que no aceptan sus actividades mercenarias. La falsa imagen de violencia y salvajismo en la conducta de las autoridades y el pueblo cubano, que pretenden fabricar el Gobierno de los Estados Unidos, sus servicios de inteligencia y sus agentes mercenarios en Miami y en Cuba, sólo existe en los medios transnacionales de la desinformación controlados por Washington, que cumplen instrucciones de repetir hasta la saciedad las mentiras fabricadas por los personeros del Imperio.

876. La carta del Gobierno también comunicó que alegaciones de maltratos, hostigamientos y violación de derecho a la intimidad personal a cualquiera de las Damas de Blanco eran falsas. El Gobierno reiteró que en Cuba no hay prisioneros políticos, y que los familiares de las señoras de Las Damas de Blanco no fueron juzgados o sancionados por el disfrute de alguno de los derechos humanos reconocidos en la Declaración Universal. Por el contrario, ellos se encuentran en prisión, en cumplimiento de sentencias firmes de los tribunales cubanos y luego de haber sido procesados con todas las garantías del debido proceso, por haber incurrido en graves hechos constitutivos de delitos, actuando como asalariados de la potencia extranjera que viola los más elementales derechos del pueblo cubano. En Cuba ninguna persona es detenida,



sancionada o molestada por razones relacionadas con el disfrute de sus derechos humanos.

### Observaciones

877. La Relatora Especial agradece al Gobierno de Cuba las respuestas proporcionadas y solicita información sobre las comunicaciones que siguen sin respuesta.

### Democratic Republic of the Congo

#### Lettre d'allégations

878. Le 11 février 2008, l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé une lettre d'allégations concernant le **déroulement du procès en première instance et en appel des présumés assassins de M. Serge Maheshe**, journaliste et défenseur des droits de l'homme tué le 13 juin 2007 à Bukavu, et les pressions exercées à l'encontre de plusieurs journalistes, responsables associatifs et avocats qui participent ou suivent ce procès. Selon les informations reçues :

879. Alors que le procès en appel des présumés assassins de M. Serge Maheshe s'est ouvert le 6 février 2008 devant la Cour de Justice militaire de Bukavu, plusieurs dysfonctionnements lors du procès en première instance en août 2007 auraient été observés, en l'occurrence :

- L'absence d'enquête pénale approfondie avant et pendant le procès ;
- Les armes des présumés assassins qui auraient dû être placées sous scellés traînaient par terre dans la poussière aux pieds du greffier (photos disponibles), interdisant la possibilité de toute expertise efficace et en particulier de toute recherche ADN ;
- L'absence de toute expertise balistique, expertise des armes, ou test ADN et autopsie, et ce malgré certaines demandes des avocats et alors même que la MONUC a proposé son assistance technique et logistique en ce sens ;
- Tous les prévenus ont assisté côte à côte aux auditions et débats, de sorte qu'ils ont entendu la version de tous les autres en direct, ce qui a pu les influencer ou leur permettre de modifier leurs déclarations. Ils ont également pu communiquer entre eux, se trouvant côte à côte.
- Le refus par l'administration pénitentiaire de séparer certains prévenus en cellule ;
- Le refus du Tribunal d'explorer les différentes pistes et mobiles de l'assassinat en particulier la thèse initiale d'un vol à main armée commis par les deux militaires des FARDC arrêtés le 14 juin, ni celle impliquant des officiers de la Garde Républicaine. L'Auditorat Militaire de Garnison, après avoir, dès le lendemain du meurtre, inculpé deux militaires a, à la suite de l'arrestation de deux civils et de leurs aveux, abandonné totalement cette première piste pour se concentrer, sur base des

accusations proférées par ces deux nouveaux présumés auteurs matériels, sur la piste d'un assassinat commandité par les deux amis de Serge Maheshe, seuls témoins oculaires du crime. Le Tribunal n'a que très faiblement utilisé les pouvoirs d'instruction dont il dispose en n'interrogeant que très superficiellement d'autres suspects potentiels et en ne demandant au Ministère Public presque aucun devoir d'enquête pour explorer plus en profondeur ces autres pistes. Le verdict rendu le 28 août 2007 reflète d'ailleurs ce refus d'explorer les autres pistes puisque dans les 54 pages du jugement, il n'est fait quasiment aucune mention de ces pistes, y compris de celles abordées brièvement par le Tribunal au cours des audiences. Le jugement n'établit d'ailleurs pas clairement le mobile de l'assassinat.

- Les menaces de mort proférées en public lors de la reconstitution des faits par les deux prévenus militaires à l'encontre des amis de Serge Maheshe, seuls témoins oculaires, et d'un témoin qui les auraient reconnu ;
- L'audition d'un témoin sollicitée par les avocats n'a pas été accordée par le juge ;
- L'avocat de la partie civile a dû argumenter longtemps pour que le juge accepte d'entendre pour la première fois sa cliente, l'épouse de Serge Maheshe, au sujet des tensions et menaces proférées par deux militaires de la Garde Républicaine peu de temps avant l'assassinat ;
- Blocage par le président du Tribunal de nombreuses questions que les avocats des différentes parties souhaitaient poser aux témoins ; dans certains cas, le président a refusé de les leur poser; dans d'autres cas, il a répondu lui-même aux questions des avocats à la place des témoins ;
- Le juge traduisait lui-même les questions / réponses des avocats aux militaires de la Garde Républicaine (GR) entendus en qualité de témoin, en l'absence de traducteur assermenté ;
- Le deuxième militaire de la Garde Présidentielle, entendu pour la première fois en qualité de témoin, a été interrogé en présence du premier, interdisant toute possibilité de confrontation de déclarations séparées.
- Le président a reçu en cours d'audience de très nombreux coups de téléphone et on a constaté des variations de position successives sur les requêtes des avocats au fil des heures, en particulier lors de l'audition des membres de la Garde Présidentielle (GSSP) ;
- Clôture de l'instruction par le président malgré la demande d'audition du témoin et les demandes d'investigations supplémentaires des avocats ;
- La condamnation à mort de quatre civils par une juridiction militaire sur la seule base d'aveux non corroborés par d'autres éléments de preuve alors même que le tribunal a reconnu dans son jugement les nombreuses contradictions persistantes et zones d'ombres, notamment sur l'arme du crime et l'identité de l'auteur.
- Le refus de mettre le jugement à disposition des parties suite au prononcé du verdict le 28 août 2007, le jugement ayant été emporté à Kinshasa et seulement rendu disponible en octobre, bien après le délai légal d'appel. Ce retard ayant obligé les parties à faire appel sans avoir pleinement connaissance de la décision du Tribunal.

880. Par ailleurs, après le prononcé du délibéré de première instance, MM. Freddy Bisimwa et Mastakila qui auraient avoué avoir commis le crime et désigné les deux amis de M. Maheshe, MM. Serge Muhima et Alain Mulimbi, comme commanditaires, se seraient rétractés par courrier depuis la prison. Cette lettre adressée aux magistrats, qui serait sortie de manière régulière du centre de détention avec le visa du directeur de la prison, disculperait MM. Muhima et Mulimbi, condamnés à mort, et qui auraient toujours nié toute participation au meurtre de leur ami. Ce courrier mettrait aussi en cause deux magistrats de l'Auditorat militaire de Bukavu. Selon de nombreuses sources, depuis la circulation et médiatisation de cette lettre, des pressions seraient exercées sur les défenseurs des droits de l'homme qui participent ou suivent ce procès, en l'occurrence des avocats des différents prévenus et de la partie civile, journalistes et membres d'ONG des droits de l'homme. Certains d'entre eux s'autocensureraient dans leur travail par peur de représailles ou encore ne souhaiteraient pas dénoncer les incidents de sécurité qui les concernent pour ne pas s'exposer à plus de représailles (un avocat de la partie civile aurait notamment été agressé physiquement et blessé par des hommes armés qui auraient été identifiés comme étant des militaires de la 10ème Région Militaire). La plupart des menaces seraient anonymes, mais pourraient avoir des origines différentes selon les personnes visées.

881. Des craintes sérieuses ont été exprimées quant au fait que les dysfonctionnements précités lors du procès en première instance aient compromis le principe du droit à un procès équitable. Il est à craindre que des dysfonctionnements graves affectent également le bon déroulement du procès en appel et que des pressions diverses soient exercées sur les parties, avocats, témoins, journalistes et ONG locales observatrices en représailles à leurs activités de défense des droits de l'homme.

### **Appel urgent**

882. Le 15 avril 2008, l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, conjointement avec la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, a envoyé un appel urgent sur la situation de Mme **Julienne Lusenge**, coordinatrice de l'association Solidarité féminine pour la paix et le développement intégral (SOFEPADI) et Mme Thérèse Kerumbe, membre de la SOFEPADI et proche collaboratrice de Mme Lusenge. Selon les informations reçues :

883. Dans la nuit du 5 au 6 avril 2008, le domicile de Mme Julienne Lusenge, situé à Bunia, aurait fait l'objet d'une attaque par des miliciens armés qui, de toute évidence, recherchaient Mme Lusenge. Vers minuit, ces derniers se seraient introduits dans la cour en poussant la porte de la clôture, puis auraient tenté de forcer la porte de la maison. Ils auraient menacé « d'exterminer Mme Julienne Lusenge et sa famille » et de tuer les personnes qu'ils supposaient à l'intérieur de la maison, si la porte ne leur était pas ouverte. Seul, un jeune garçon, chargé de garder la maison en l'absence de Mme Lusenge et de sa famille, aurait été présent. En entendant les menaces proférées par les miliciens, il se serait caché. Les miliciens seraient restés de minuit à 5 heures du matin autour de la maison. Certains d'entre eux auraient menacé de tirer sur la maison, mais d'autres les

auraient persuadés de renoncer, de crainte que les coups de feu n'attirent l'attention du voisinage et notamment des policiers, la maison étant située non loin d'un poste de police. D'autres auraient été résolus à ne pas gaspiller les munitions « destinées à la mort de quelqu'un », selon leurs propres propos.

884. Le 31 mars 2008, alors que Mme Lusenge se trouvait en Europe afin de participer à une mission de plaidoyer sur la lutte contre l'impunité et les violences sexuelles en République Démocratique du Congo, Mme Thérèse Kerumbe aurait reçu la visite, à son domicile, de deux individus non-identifiés qui lui auraient demandé l'adresse de Mme Lusenge, alléguant qu'ils étaient des visiteurs en provenance de Bunia. Vers 22h, les deux individus seraient revenus frapper à la porte du domicile de Mme Kerumbe. Celle-ci leur ayant refusé d'entrer, ils l'auraient menacée en faisant référence au fait qu'en octobre 2002 Mme Lusenge avait dû fuir Bunia, son domicile d'origine, en raison des actes de harcèlement commis à son encontre par les milices, dont elle dénonçait les agissements, et en particulier les violences faites aux femmes. De manière générale, les animatrices de la SOFEPADI feraient l'objet de filatures par des inconnus.

885. Par un courrier en date du 1er avril 2008, l'association SOFEPADI aurait alerté le maire afin de lui demander que des mesures de sécurité soient prises afin de protéger Mme Lusenge ainsi que les autres membres de l'association. Le 3 avril 2008, l'Agence Nationale de Renseignements (l'ANR) aurait entendu Mme Kerumbe sur procès verbal. Cependant, les agents de l'ANR demanderaient des coupons de recharge téléphonique pour entamer leurs investigations. Hormis le chef d'avenue, aucune autorité ne se serait présentée pour s'informer des menaces pesant sur les membres de la SOFEPADI.

886. De vives craintes ont été exprimées quant au fait que les actes d'harcèlement contre Mme Lusenge, Mme Kerumbe et les autres membres de la SOFEPADI soient liés à leurs activités non-violentes de promotion et protection des droits de l'homme au sein de la SOFEPADI, notamment les dénonciations des crimes internationaux commises par les milices contre les femmes et qui font notamment l'objet d'investigations de la part de la Cour Pénale Internationale.

### **Appel urgent**

887. Le 15 avril 2008, l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent sur la situation de Me **Georges Kapiamba**, avocat et membre de l'Association africaine de défense des droits de l'Homme - section de Katanga (ASADHO/Katanga). Selon les informations reçues :

888. Le 3 avril 2008, Me Kapiamba aurait reçu des appels téléphoniques anonymes provenant de numéros masqués, le menaçant en ces termes : « Comme tu ne veux pas te taire sur le dossier Kilwa et que tu continues à déranger le gouvernement par tous les moyens, tu vas être détruit sur tous les plans même professionnel. Afin de te mettre hors d'état de nuire, nous allons t'atteindre par tous les moyens ».

889. Ces menaces feraient suite à un communiqué de presse publié dans l'après midi du 3 avril 2008 par l'ASADHO/Katanga, l'Action contre l'impunité pour les droits humains ainsi que les organisations non-gouvernementales internationales Global Witness et Rights and Accountability in Development, dénonçant la décision des autorités provinciales du Katanga leur interdisant de se rendre à Kilwa pour rencontrer les victimes civiles de manifestations violemment réprimées par les forces gouvernementales en octobre 2004. A la suite de la publication de ce communiqué, un journaliste de la British Broadcasting Corporation (BBC) aurait contacté Me Kapiamba qui lui avait accordé une interview concernant les circonstances de l'affaire.

890. Me Kapiamba aurait par ailleurs accordé une interview à un journaliste de Radio France International (RFI) concernant la publication, dans le périodique de l'ASADHO, d'articles relatifs à l'usage disproportionné d'armes à feu, et au retrait de la personnalité juridique de Bundu Dia Kongo par le Ministre de la Justice. Il aurait également accordé une interview à un journaliste de la BBC en visite à Lubumbashi, au cours de laquelle il aurait critiqué de la même manière les violations alléguées des droits des victimes de Kilwa par la justice congolaise.

891. Des craintes ont été exprimées quant au fait que les menaces proférées contre Me Kapiamba soient liées à ses activités non-violentes de protection des droits de l'homme, en particulier dans l'exercice de son droit à la liberté d'expression.

### **Appel urgent**

892. Le 24 avril 2008, l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme a envoyé un appel urgent sur la situation de Mme **Sifa Bunyere**, présidente de l'Association des Femmes pour l'assistance aux défavorisés (AFAD), une organisation qui défend les victimes de violences sexuelles à Goma, et membre de l'Association Solidaire pour le Développement et la Paix. Selon les informations reçues :

893. Depuis le 1er avril 2008, Mme Sifa Bunyere ferait l'objet de menaces de mort anonymes par téléphone et par lettre. En outre, des personnes suspectes auraient été vues à plusieurs reprises en train de rôder autour de son domicile pendant la nuit. Mme Sifa Bunyere aurait été contrainte de se cacher.

894. Ces menaces de mort feraient suite au témoignage de Mme Sifa Bunyere auprès de la police concernant l'identité des auteurs présumés de l'assassinat du major Lumoo Buunda, qui a été tué le 16 février 2008 et dont l'épouse serait membre de l'AFAD. L'assassinat aurait été perpétré dans le quartier où travaille l'AFAD et où habite Mme Sifa Bunyere, ainsi que les auteurs présumés.

895. Des craintes ont été exprimées quant au fait que les menaces de mort proférées à l'encontre de Mme Sifa Bunyere soient liées à ses activités non-violentes de défense des droits de l'homme.

### **Appel urgent**

896. Le 29 avril 2008, l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé un appel urgent sur la situation de Mme **Sophie Roudil**, représentante de l'organisation non-gouvernementale Protection internationale en République démocratique du Congo, Me **Jean Bedel Kaniki**, avocat membre de l'Initiative congolaise pour la justice et la paix, M. **Jean-Paul Ngongo**, membre de la Voix des sans voix ni liberté et représentant des ONG de défense des droits de l'homme au bureau de coordination de la société civile de Bukavu, et M. **Dieudonné Sango**, vice-président du Réseau provincial des organisations de droits de l'Homme de la RDC et coordinateur du Programme de développement social. Ces quatre personnes suivent, en qualité d'observateurs, le procès en appel de l'affaire Serge Maheshe, journaliste de Radio Okapi assassiné le 13 juin 2007 à Bukavu. Nous souhaiterions également attirer l'attention de votre Gouvernement sur la situation de Me Mulume et Me Cubaka, deux avocats des présumés auteurs matériels dans le procès Maheshe.

897. Des dysfonctionnements entourant le procès en première instance et des menaces proférées contre les défenseurs des droits de l'homme participant ou suivant le procès en appel ont déjà fait l'objet d'un appel urgent que nous vous avons transmis le 11 février 2008. Selon les informations reçues :

#### 1) Actes d'intimidation à l'encontre des observateurs du procès Maheshe en appel

898. Le 17 avril 2008, Mme Sophie Roudil aurait reçu un message anonyme sur son téléphone portable (SMS) la mettant en garde avec les termes suivants : « Ne t'en fais pas. Rira bien qui rira le dernier. Ils paieront cher de leur propre sang à l'issue de ce procès qu'ils ont tant discrédité. Nous sommes au Congo. Au plaisir... ». Ce message viserait l'ensemble des observateurs qui auraient dénoncé des irrégularités dans le procès en appel de l'affaire Serge Maheshe. Le même jour, M. Jean Bedel Kaniki et M. Dieudonné Sango aurait reçu un message similaire.

899. Le 19 avril 2008, Mme Sophie Roudil aurait été une nouvelle fois menacée par le biais du SMS suivant : « Avec tous les respects, tu es RESPONSABLE de ce qui va ARRIVER ». M. Jean Bedel Kaniki, M. Jean Paul Ngongo et M. Dieudonné Sango auraient quant à eux reçu le message suivant : « Plainte. Une contre attaque ? Hum!!! Ok. Le plus fort l'emportera. C'est une question de temps. Le vin est tiré...bonne chance. Enfin, M. Jean Bedel Kaniki (ONG ICJP) aurait de surcroît reçu deux appels du même numéro à 19h27 et 20h01, mais n'aurait pas décroché.

900. Le 24 avril, des menaces contre M. Jean Bedel Kaniki auraient à nouveau été proférées : « Tu es un CADAVRE qui marche ! Ca te dit quelque chose ? ksk tu gagnes à salir comme ça l'image de ton pays ? J'ai donné ma tête à couper. Mais en ce qui concerne toi... ».

901. Des plaintes auraient été déposées auprès de la police par les personnes susmentionnées les 19, 21 et 25 avril.

902. Me Mulume et Me Cubaka, seraient également la cible de menaces. En témoignent les messages suivants reçus le 21 avril 2008 : « Merci d'être syniques [sic]. Votre stratégie consiste maintenant conseiller vos clients de sécher les audiences!! Le fait de les avoir incités à citer les militaires dans cette saleté ne vous a pas suffi? Après tout, ce procès finira un jour et nous verrons qui sera ridicule... ». « Me, avec respect, je te mets en garde contre cette façon de vouloir salir les magistrats militaires. Tu as donc adopté la méthode de l'avocat Cubaka des assassins qui n'a pas du [sic] respect pour les morts et qui veut dérouter la cour vers une piste militaire inexistante. Après tout, ce procès finira, et... ».

903. Le 23 avril, les deux avocats auraient déposé une plainte auprès du Procureur général. Me Mulume aurait ensuite annoncé qu'il se retirait du procès car il ne se sentait pas en sécurité et n'était pas en mesure d'exercer librement ses activités professionnelles.

## 2) Dysfonctionnements allégués lors du procès Maheshe en appel

Parallèlement à ces actes d'intimidations à l'encontre des observateurs du procès, les dysfonctionnements suivants lors du procès en appel auraient été observés :

- La violation systématique du principe de l'égalité des moyens entre les parties lors des audiences : alors que le Ministère Public et les avocats de la partie civile s'exprimeraient longuement et obtiendraient systématiquement la parole, les avocats de la défense, et les prévenus eux-mêmes, se seraient vus à de nombreuses reprises refuser la parole ou interrompre par le Premier Président de la Cour ;

- Le procès en appel n'aurait jusqu'à présent pas procédé à l'examen des questions controversées en première instance mais l'instruction se serait presque exclusivement focalisée sur la lettre de rétractation des présumés auteurs matériels. La Cour semblerait insister à remettre en cause la validité de la rétractation des aveux alors que les prévenus auraient affirmé de manière constante que deux magistrats militaires les auraient forcés à faire ces « aveux » et à mettre en cause les deux amis de Serge Maheshe ;

- Les deux magistrats militaires, mis en cause par les deux auteurs matériels, assisteraient à toutes les audiences. Ils n'auraient jamais été isolés de la salle d'audience avant d'être entendus, ce qui aurait pu influencer leurs déclarations et serait en violation du code judiciaire militaire. Aucune enquête n'aurait eu lieu sur les allégations de subornation et l'Auditeur Supérieur serait intervenu en personne au procès pour prendre la défense des magistrats et réfuter ces allégations ;

- Un des présumés auteurs matériels aurait été victime d'une agression à la prison centrale. Ces avocats auraient qualifié l'agression de tentative d'assassinat et demandé l'ouverture d'une enquête. La Cour n'aurait ordonné aucune enquête sur cet incident ;

- Aucun élément de preuve nouveau n'aurait été examiné. La Cour aurait refusé de procéder à une expertise balistique de l'arme ;

- Les prévenus militaires, principaux prévenus au début du procès en 1ère instance, seraient absents du procès qui n'aurait jusqu'à présent jamais cherché à examiner leur rôle dans l'affaire. L'un des deux militaires ne se serait jamais présenté, mais le second, notifié en personne, se serait présenté à deux audiences, le plus récemment en date du 9 avril, mais n'aurait pas été entendu. D'après le Premier Président de la Cour et le chargé des renseignements des FARDC qui aurait comparu, les deux militaires seraient actuellement portés disparus. Néanmoins, la Cour n'aurait fourni aucun effort pour les rechercher et préférerait visiblement s'appuyer uniquement sur les différents procès verbaux d'auditions établis antérieurement, faisant ainsi obstacle au ré-examen des multiples contradictions constatées dans leurs déclarations et relevées par les avocats de la défense. Les avocats de la défense seraient systématiquement interrompus lorsqu'ils tentent de faire allusion aux prévenus militaires.

- Le Premier Président de la Cour et le Ministère Public aurait tenu à plusieurs reprises des propos désapprouvant ouvertement la présence et le travail des observateurs du procès depuis l'audience du 26 mars 2008. Lors de cette audience, le Ministère Public aurait été le plus explicite en indiquant que l'observation 'subjective' qui serait menée exposait leurs auteurs à des poursuites pour outrage à la magistrature. Parlant de l'interview d'un membre d'une ONG observatrice sur RFI, il aurait qualifié d'hérésies les informations diffusées.

Des vives craintes sont exprimées quant au fait que les menaces proférées contre Mme Sophie Roudil, Me Jean Bedel, M. Jean-Paul Ngongo, M. Dieudonné Sango, Me Mulume et Me Cubaka soient liées à leurs activités non-violentes de défense des droits de l'homme. Des craintes sont également exprimées quant au fait que les dysfonctionnements précités lors du procès en appel puissent compromettre le principe du droit à un procès équitable.

### **Observations**

904. La Rapporteuse spéciale regrette, au moment de la finalisation du présent rapport, l'absence de réponses à toutes ses communications et exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celles-ci.

905. La Rapporteuse spéciale remercie le Gouvernement de son invitation en date du 6 janvier 2009 à effectuer une mission d'établissement des faits en République Démocratique du Congo. Elle espère avoir l'occasion de se rendre en RDC très bientôt afin de discuter de la situation des défenseurs des droits de l'homme avec les autorités concernées.

### **Dominican Republic**

#### **Carta de alegaciones**

906. El 22 de enero de 2008, la Representante Especial, junto con el Relator Especial sobre los derechos humanos de los migrantes, envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **Johnny**



**Rivas**, coordinador de las Asociaciones Solidarias de Trabajadores Migrantes de la Línea Noroeste (ASOMILIN).

907. Según información recibida; el 9 de enero de 2008, un grupo de entre 10 y 15 personas se habría presentado en el domicilio de Johnny Rivas en la comunidad de Ranchadero, provincia de Monte Cristi. Se le informó a la esposa del Sr. Rivas que la familia disponía de un plazo de tres semanas para abandonar la comunidad. Según se informa, un empleado gubernamental de la Dirección General de Migración habría amenazado con expulsar a todos los trabajadores y trabajadoras migrantes haitianos que viven en Ranchadero. Escenas parecidas se habrían producido más tarde en las viviendas de otros trabajadores haitianos.

908. Estos actos habrían ocurrido tras un ataque contra trabajadores y trabajadoras migrantes haitianos y dominicanos de origen haitiano, sucedido en Ranchadero el 28 de octubre de 2007, en que varias personas habrían resultado heridas con machetes, y varias casas habrían sido atacadas. Johnny Rivas habría sido amenazado tras informar del ataque a las autoridades. Según se informa, la mayoría de los migrantes haitianos que vivían en la comunidad se habrían ocultado o abandonado la República Dominicana ante el temor de más violencia.

909. Se expresó profunda preocupación por estos supuestos actos de intimidación y hostigamiento en contra del Sr. Johnny Rivas, de su familia y de las comunidades haitianas o de ascendencia haitiana en la República Dominicana, que pueden deberse al origen nacional de los susodichos.

### **Observaciones**

910. La Relatora Especial lamenta que al momento de finalización del presente informe no había recibido respuesta a su comunicación de 22 de enero de 2007 e insta al Gobierno a que proporcione una respuesta a las alegaciones allí consignadas..

## **Ecuador**

### **Llamamiento urgente**

911. El 10 de marzo de 2008, la Representante Especial envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **Marlon Santi**, Presidente de la Confederación de Nacionalidades Indígenas del Ecuador (CONAIE), y su pareja, la Sra. **Miriam Cisneros**. El Sr. Santi fue el objeto de llamamientos urgentes enviados por titulares de mandato el 5 de marzo de 2004 (ECU 4/2004), y el 29 de diciembre de 2004 (ECU 16/2004).

912. De acuerdo con la información recibida, el 22 de febrero de 2008, la Sra. Miriam Cisneros se dirigía a la ciudad de Puyo cuando se le habrían acercado dos hombres vestidos de civiles, quienes la habrían llevado en una camioneta hacia Quito. Durante el trayecto, los agresores le habrían preguntado a la Sra. Cisneros de manera insistente sobre

las actividades de la CONAIE y de las organizaciones que le asesoran, los órganos que ejercían de asesores y la identidad de las mujeres que habían participado en una manifestación contra el Tratado de Libre Comercio. Asimismo, los desconocidos habrían hecho preguntas acerca de las actividades políticas de la organización y de su Presidente, el Sr. Santi.

913. Los desconocidos habrían agredido físicamente a la Sra. Cisneros y habrían proferido amenazas de muerte en su contra. Tras baldearla con agua fría, la habrían abandonado en la carretera. Antes de darse a la fuga, los agresores habrían afirmado estar bajo los órdenes del Gobierno de Ecuador. Según se informó, la Sra. Cisneros habría sido encontrada en un estado de casi inconsciencia en las proximidades de Puyo, siendo posteriormente trasladada a una clínica cercana. Mientras tanto, el Sr. Marlon Santi habría recibido una llamada telefónica en la que también él habría sido amenazado de muerte en caso de que denunciara el secuestro de la Sra. Cisneros.

914. Se temía que el secuestro y la agresión contra la Sra. Miriam Cisneros podrían estar vinculados con las actividades del Sr. Marlon Santi en defensa de los derechos humanos, en particular los derechos de las comunidades indígenas en Ecuador. Se expresó preocupación por la integridad física y psicológica de ambas personas.

#### **Carta de alegaciones**

915. El 3 de abril de 2008, la Representante Especial envió una carta de alegaciones envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **Alexis Ponce**, portavoz y fundador de la Asociación Permanente por los Derechos Humanos (APDH) y dirigente nacional de los derechos humanos y asesor en la Asamblea Constituyente de Ecuador, y el Sr. **Fernando Cordero**, Vicepresidente de la Asamblea Constituyente.

916. Según la información recibida, el 29 de febrero de 2008, a aproximadamente las 18.00, el Sr. Alexis Ponce habría sido agredido en el barrio quiteño de La Floresta por cuatro individuos desconocidos. Estas personas, que le habrían amenazado al Sr. Ponce con pistolas automáticas, le habrían golpeado y exigido que les entregara su computadora, que almacenaría información y documentos relacionados con su trabajo sobre violaciones de los derechos humanos en Ecuador.

917. Agentes policiales, que habrían llegado a los pocos minutos, se habrían negado a perseguir a los asaltantes. Uno de los agentes habría reclamado al Sr. Ponce que “Usted es el defensor de derechos humanos, no? Ya ve, por defender delincuentes le pasa esto; y vuelta nosotros no tenemos quién nos defienda”. Posteriormente al ataque, el Sr. Ponce habría esperado en la oficina de la APDH al Jefe de la Policía Judicial (PJ) a fin de hacer sus declaraciones formales mas no habría llegado el policía. El 1 de marzo de 2008, el Sr. Alexis Ponce habría recibido una llamada del Mayor de la Policía Judicial, el Sr. Hugo Torres, quien le habría indicado que quería “corroborar si era cierta la información de la denuncia del parte policial del patrullero de La Floresta que les había llegado”, pidiéndole que rindiera las declaraciones de rigor en la Policía Judicial.

918. El 7 de febrero 2008, en un incidente parecido, el Sr. Fernando Cordero habría sido interceptado y asaltado cerca de su domicilio en Quito por individuos desconocidos con armas automáticas, quienes, lanzando disparos al aire, le habrían sustraído su computadora portátil. Según se informa, la Policía habría establecido que el robo era fruto de la “delincuencia común”.

919. Se temía que el hostigamiento y amenazas contra los Sres. Alexis Ponce y Fernando Cordero podrían estar directamente vinculados con su trabajo en defensa de los derechos humanos, concretamente, su participación activa en la Asamblea Constituyente del Ecuador. Se expresó preocupación por su seguridad y por su integridad física y psicológica, así como la de los miembros de su familia.

### **Respuesta del Gobierno**

920. Mediante carta con fecha del 9 de junio de 2008, la Misión Permanente del Ecuador en Ginebra respondió a la comunicación más arriba. La respuesta subrayó que el señor Fernando Cordero es Vicepresidente de la Asamblea Nacional Constituyente y es alto dirigente de Alianza País, movimiento político del Presidente de la República Rafael Correa. Por su parte, el señor Alexis Ponce se desenvuelve como Asesor de la misma Asamblea Nacional Constituyente.

921. Sobre el caso del señor Fernando Cordero: se habían realizado las investigaciones correspondientes para esclarecer los hechos del 7 de febrero, de esta manera el día 10 de febrero de 2008 se había iniciado la instrucción fiscal por el delito flagrante de ocultación de cosas robadas, el día 11 de febrero, luego del peritaje que establece el código de procedimiento penal, se entregó a su propietario la computadora rescatada de los imputados.

922. El día 4 marzo 2008, el juez de la causa fijó el monto de la caución y, por existir dictamen acusatorio en contra de los imputados, el Juez Duodécimo de lo Penal de Pichincha ha señalado para el día Jueves 29 mayo 2008, a las 10h00, la Audiencia Preliminar, conformó lo establecido el Art. 228 del Código de Procedimiento Penal.

923. En lo relativo al caso del señor Alexis Ponce: se había presentado la respectiva denuncia N° PJP40803392 de fecha 1 marzo 2008 por el delito de Tentativa de Asesinato y Robo. En base a dicha denuncia se había iniciado la indagación previa N° 08-03-28141, dentro de la cual se ha oficiado a la Policía Judicial para que se realicen las diligencias del caso tendientes a esclarecer los hechos, esto es, recepción de versiones, reconocimiento del lugar de los hechos, se ha indagado a personas que han sido aprehendidas y detenidas por diferentes causas, se ha recorrido por varios lugares de venta de objetos de dudosa procedencia, y se han coordinado diferentes operativos de control.

924. La respuesta sostenía que las autoridades estaban pendientes de la recepción de la versión del señor Alexis Ponce, quien se había comprometido en acercarse a las oficinas

de la Policía Judicial el día que tuviera disponible, dado que se desenvuelve como Asesor de la Asamblea Constituyente.

### **Llamamiento urgente**

925. El 7 de julio de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos envió un llamamiento urgente al Gobierno en relación con la Sra. **María Espinosa**, integrante de la Comisión de Derechos Humanos de la provincia de Orellana.

926. De acuerdo con la información recibida, el 11 de junio de 2008, la policía nacional habría detenido a la Sra. Espinosa en una imprenta donde retiraba un afiche de denuncia de la violación de derechos humanos, respecto a los disturbios que tuvieron lugar en noviembre de 2007 en Dayuma, en la provincia de Orellana. El material, que aún no había sido difundido por Sra. Espinosa, habría denunciado la actuación de las tropas del ejército y la decisión de enviar fuerzas militares a Dayuma.

927. La susodicha habría sido detenida sin orden judicial ni explicación del motivo de su arresto mas se ha informado que un militar de rango mayor, cuyo nombre me ha sido referido, habría presentado una denuncia en su contra ante la fiscalía de la provincia de Orellana, en la cual se habría afirmado que dicho afiche fuera de carácter calumnioso y difamatorio hacia el Presidente de la República, el Ministro de Defensa y el militar a cargo de la región.

928. El 12 de junio de 2008, la Sra. Espinosa habría comparecido ante el juez, que habría iniciado un proceso penal en base del artículo 230 del Código Penal por “delito de ofensas contra el Presidente de la República” y dictado prisión preventiva, sin precisar el motivo de dicha decisión. La Sra. Espinosa habría sido liberada el mismo día después de que el juez recibiera una comunicación de Presidente Correa, mediante la cual éste habría declarado que no se sentía ofendido. Los cargos judiciales contra la susodicha siguen pendientes y permanece a la espera de su proceso.

929. Se alega que la detención de la susodicha así como los cargos judiciales en su contra podrían estar directamente relacionados con sus actividades en defensa de los derechos humanos, en particular su ejercicio del derecho a la libertad de expresión a fin de promover los derechos humanos en Orellana. Se recuerda que la Sra. Espinosa ha sido beneficiaria de medidas cautelares de la Comisión Interamericana de Derechos Humanos (CIDH), a causa de las amenazas de muerte que ha recibido por estas actividades y se expresa preocupación por su integridad física y psicológica.

### **Llamamiento urgente**

930. El 5 de agosto de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos envió un llamamiento urgente al Gobierno en relación con la Sra. **Esther Landetta Chica**, miembro del Comité de Coordinación Nacional por la

Defensa de la Vida y la Soberanía, del Frente de Mujeres Defensoras de la Pachamama, y de la Asamblea Pro-Defensa de Nuestros Ríos.

931. Según las informaciones recibidas, el 4 de abril de 2008, la Municipalidad de Guayaquil habría publicado los resultados de un estudio que habría indicado un alto nivel de contaminación en los ríos Gala, Chico, Tenguel y Siete a causa de materiales tóxicos dispensados por empresas mineras. El estudio se habría realizado después de una campaña nacional que habría tenido lugar durante el último año, en la que habría participado la Sra. Esther Landetta Chica, contra dichas empresas mineras. A raíz de esta campaña, la Sra. Esther Landetta Chica habría recibido varias amenazas de muerte que también se habrían extendido a miembros de su familia.

932. El 8 de abril de 2008, la Sra. Esther Landetta Chica habría presentado una denuncia a la Procuraduría Pública de Guayas. La denuncia habría afirmado que, el 1 de abril, tres agentes de la inteligencia de la provincia El Oro la habrían buscado en su casa. Allí se habrían presentado como miembros de un comité por la mejora de Portovelo. Habrían preguntado dónde estaba la Sra. Esther Landetta Chica y tomado su número telefónico. Luego un hombre desconocido habría llamado a la Sra. Esther Landetta Chica, diciéndole que quería tomar parte en las manifestaciones planificadas para el 2 de abril. La Sra. Esther Landetta Chica habría considerado esta llamada una forma de intimidación. Su denuncia también habría contenido información sobre una amenaza telefónica que habría recibido en la que le habrían dicho que iban a matar a ella o a un miembro de su familia a menos que ella se retirara de su lucha contra la contaminación de los ríos.

933. El 12 de julio de 2008, aproximadamente a las 9 a.m., la Sra. Esther Landetta Chica habría recibido otra amenaza telefónica en la que un individuo desconocido la habría informado que varios asesinos habrían sido contratados para matarla. El 13 de julio habría abandonado su casa. Aunque no habría vuelto, ahora ella y su familia se encuentran bajo protección policial después de la solicitud, presentado el 21 de julio de 2008 por el Fiscal en los Asuntos Criminales, que el Jefe de la Policía Judicial se la proporcionara.

934. Se expresó preocupación que la intimidación y las amenazas de muerte contra la Sra. Esther Landetta Chica y su familia podrían estar relacionadas con sus actividades legítimas en la defensa de los derechos medioambientales. Se expresó gran preocupación por la integridad física y psicológica de la Sra. Esther Landetta Chica, así como la de los miembros de su familia.

### **Respuesta del Gobierno**

935. El 27 de agosto de 2008, el Gobierno de Ecuador respondió al llamamiento urgente. La respuesta comunicó que no se podía determinar la exactitud de los hechos dado que el proceso se encontraba en una instancia de indagación previa donde se pretendía de manera precisa determinar la veracidad de los fundamentos de hecho presentados en las alegaciones. La señora Esther Landetta Chica presentó una denuncia

ante la fiscalía del Guayas por un delito ambiental a causa de la contaminación de los ríos Gala, Chico Tenguel y Siete, la misma que fue ingresada en el sistema con el número 08-04-08-052 y en el despacho del fiscal Dr. Alberto Valdez Larrea con el número 195.2008. Este proceso se encontraba en etapa de indagación previa, que en el Ecuador consiste en una instancia investigativa interna del Ministerio Público, donde se recaban pruebas y se indaga acerca de la veracidad de los hechos; y como una diligencia derivada de esta instancia, se ofició al Programa de protección de víctimas y testigos para que brindara las debidas garantías a los derechos de la señora Landetta Chica mientras dure el proceso, dentro de estas garantías la protección de su derecho a la vida. Según manifestó el Dr. Alberto Valdez Larrea, la señora Landetta no había interpuesto ninguna denuncia de manera concreta en contra de las supuestas amenazas telefónicas en contra de su vida, por lo que no se ha iniciado ninguna clase de investigación al respecto.

936. La respuesta también comunicó que no se había tomado ninguna sanción dado que como se supo manifestar en la respuesta anterior el proceso se encontraba en etapa de indagación previa, y aún no se había llegado a una etapa resolutive. Además, al no existir un proceso iniciado por las supuestas amenazas telefónicas en contra de la vida de la señora Esther Landetta Chica, tampoco existía la posibilidad de que existieran sanciones para los autores de estas llamadas. La señora Landetta se acogió al Programa de protección de víctimas y testigos como diligencia derivada de la etapa de indagación previa del proceso que fuera iniciado por la misma señora Landetta por un delito ambiental.

### **Observaciones**

937. La Relatora Especial lamenta que en el momento de finalizar este informe, el Gobierno no le haya remitido información en respuesta a las comunicaciones de 10 de octubre de 2008 y de 1 de julio de 2008 e insta al gobierno a que adopte todas las medidas necesarias para proteger los derechos y las libertades de las personas mencionadas en estos casos, así como investigar, procesar e imponer las sanciones adecuadas a todas las personas responsables de las violaciones alegadas.

## **Egypt**

### **Letter of allegations**

938. On 18 January 2008, the then Special Representative sent a letter of allegations concerning Mr **Mosaad Soliman Hassan Hussein** (a.k.a. Mosaad Abu Fagr), a human rights activist working on behalf of the rights of the Sinai community in Egypt.

939. According to information received; in the early hours of 26 December 2007, Mr Mosaad Abu Fagr was allegedly arrested by members of the Ismailia police force at his home in the housing area of the Suez Canal Company in the city of Ismailia. According to reports, the police searched his house, allegedly confiscating his mobile phone and the hard-drive of his computer. Mr Mosaad Abu Fagr was taken to Balouza police station on

the border between Sinai and Ismailia, before being transferred to security facilities of North Sinai at 4.00am. Mr Mosaad Abu Fagr has allegedly been charged by the Public Prosecutor's Office with having 'instigated rioting' and 'spending of public funds' under Egyptian penal law. According to reports, he is currently being detained in El Arish prison pending his trial. Mr Mosaad Abu Fagr was reportedly arrested in September 2007 and released shortly afterwards.

940. Concern was expressed that the arrest of Mr Mosaad Abu Fagr was directly related to his work in defence of human rights, particularly the rights of the Sinai community in Egypt and to prevent him from taking part in a peaceful demonstration being held by members of the Sinai community.

### **Letter of allegations**

941. On 16 May 2008 the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, sent a letter of allegations concerning Ms. **Magda Adly**, a medical professional with the El Nadim Centre for Psychological management and Rehabilitation of Victims of Violence, an organisation that assists victims of torture and violence. According to the information received, On 30 April 2008, Ms. Magda Adly was physically assaulted by a police officer in a courtroom in the town Kafr El Dawwar, the district of Beheira. She suffered a broken shoulder, as well as injuries to the head. She lost consciousness for thirty minutes. The assault occurred after Ms. Magda Adly had testified in a case concerning members of a local family who allegedly had been subjected to torture by local police. On the morning of 30 April 2008, El Nadim Centre had released a statement calling for an investigation into the allegations of torture and other ill-treatment of members of the Sobhi Mohamed Sobhi Hussein family by the local police in Kafr El Dawwar.

942. After the assault, the police officer who attacked Ms. Magda Adly was taken into custody. He later stated that he had been following the orders of Chief intelligence officer Mr. Ahmed Maklad of the Kafr El Dawwar police. During the hearing, the car of Ms. Mona Hamdy, another psychiatrist at the El Nadim Centre, which was parked outside the courtroom, was vandalized under circumstances that are not yet clear.

943. Concern was expressed that the assault against Ms. Magda Adly was related to her legitimate and non-violent work in the defense of human rights, in particular her work to defend the rights of victims of violence and torture. Concern was also expressed for the physical and psychological integrity of Ms. Magda Adly, as well as that of all members of the El Nadim Centre.

### **Response from the Government**

944. In a letter dated 25 July 2008 the Government responded to the communication sent by the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, on 16 May 2008. The Government reported that domestic mechanisms continue to consider the complaint and are impartially reviewing the allegations of the different parties and the evidence at their disposal. The Department of Public Prosecutions, as an investigative body, is competent to decide whether an offence has been committed and whether or not to proceed with the prosecution. The Buhairah Security Department is in charge with the investigation.

945. When interviewed by the investigative authorities, the accused, Mr Ahmad Antar Ibrahim Mahmud, denied the charges against him. Medical reports of the persons involved in the incident were taken at the Department of Forensic Medicine and the car of Dr. Magda Mohamed Adali was examined by the Department of Public Prosecutions was examined at the outset of the investigation, and an engineer from the Kafr al-Dawwar transport unit was dispatched to carry out a technical examination of the vehicle.

946. The Buhayra Security Department stated that, according to a fax received from the General Department for Security in Cairo, the accused, Mr Ahmad Antar Ibrahim Mahmud was a soldier who had been on official leave on 21 April 2008. The fact that he had gone missing had been reported on 29 April 2008. At a hearing held on 17 May 2008, the Misdemeanors Court decided to release the accused, Mr Ahmad Antar Ibrahim Mahmud. On the same day, the Department of Public Prosecutions appealed the decision. The appeal was heard on 18 May 2008. The court accepted the appeal but decided on the merits to uphold the decision to release the accused, on condition that he was not being sought on another count.

### **Urgent appeal**

947. On 30 June 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal regarding Mr **Kamal Murad**, a journalist for the newspaper *Al-Fajr*. He has reported on alleged cases of corruption and human rights violations committed by police officers in Egypt. According to information received, on 17 June 2008, in Rahmaniya in the Buhaira Governate, Mr Kamal Murad was arrested and detained after conducting interviews with peasants in Ezbat Mohram and taking photographs of police officers beating peasants, allegedly to force them to sign leases with a local businessman whose two sons are police officers. Mr Murad's interview notes and the memory card from his mobile phone containing the photographs of the incident were confiscated.

948. While in detention, Mr Murad was beaten and verbally abused by three police officers whose names are known to the Special Rapporteur and who reportedly referred to him as “the one who sent the officer to jail for three years”. Kamal Murad had previously reported on a torture case which resulted in the conviction and three-year prison sentence



of a police officer. Mr Murad was charged with attacking police officers and inciting the peasants against security forces and released after several hours in detention. His confiscated property has not yet been returned to him.

949. Concern was expressed that the arrest and ill-treatment of Mr Kamal Murad may be directly related to his activities in defense of human rights, in particular to his reports about alleged human rights violations committed by members of the police force. In view of the incident outlined above, further concern was expressed for the physical and mental integrity of Mr Murad

### **Response from the Government**

950. In a letter dated 5 December 2008 the Government responded to the communication sent on 30 June 2008. At the time of the finalization of the current report, a translation of this reply was not yet available.

### **Urgent appeal**

951. On 21 August 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning Mr **Mohamed Bayoumi**, a lawyer and representative of the Association for Human Rights and Legal Aid (AHRLA). He was the defence lawyer of Ms Awleel, a Sudanese refugee who was assaulted and raped by two Egyptian police officers. As a result of the court case, one of the police officers was sentenced to 25 years in prison. According to the information received, Mr Mohamed Bayoumi and members of his family have been harassed and intimidated several times over the past two months. In July 2008, the sentenced police officer offered him a bribe of 50.000 LE in order to drop the charges against him, which Mr Bayoumi refused. On 2 August 2008, relatives of the sentenced police officer stopped Mr Bayoumi in the street, beat his leg and stole his case files on Ms Awleel. On 13 August 2008, his family received a phone call claiming that Mr Bayoumi had been shot dead and that his body could be found in the morgue. Mr Mohsen, who is Mr Bayoumi's partner on the Awleel case, received a similar phone call.

952. Concern was expressed with regard to the acts of harassment and intimidation against Mr Bayoumi, which are connected with his activities in defense of human rights. Further concern was expressed regarding the physical and psychological integrity of Mr Bayoumi and that of his family.

### **Urgent appeal**

953. On 31 October 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal regarding the alleged threats against Messrs. **Nasser Amine** and **Hammad Wadi Sannd**. Mr. Nasser Amine is the Director General of the *Arab Centre*

*for the Independence of the Judiciary and the Legal Profession (ACIJLP)*. Mr. Hammad Wadi Sannd is a lawyer and a researcher with the same organization. The ACIJLP is a non-governmental institution that works to reinforce the status of justice, the independence of the judiciary and the legal profession, and the respect of human rights and fundamental freedoms in the Arab region. In Darfur, Sudan, it works to strengthen the implementation of criminal justice and to advocate for the intervention of the *International Criminal Court (ICC)*.

954. According to the information received, on 25 October 2008, threats were sent by email to the official ACIJLP address by a group which called itself the Middle East Mujahedeen in Cairo. The email threatened to kill Mr. Nasser Amine if he, the ACIJLP, or the International Criminal Court, continued to intervene in the Darfur crisis. Threats were also made against Mr. Hammad Wadi Sannd.

955. Concern was expressed that the threats against Messrs. Nasser Amine and Hammad Wadi Sannd may be related to their legitimate activities in the strengthening of criminal justice in Darfur. Serious concern was expressed for the physical and psychological integrity of Messrs. Nasser Amine and Hammad Wadi Sannd.

#### **Response from the Government**

956. In a letter dated 15 January 2009, the Government responded to the communication sent on 31 October 2008. The Government reported that neither the Ministry of Interior, nor the Public Prosecutor's Office had prior information regarding this case. The Government also noted that neither Ms Nasser Amin, nor Mr Hammad Wadi has filed a complaint to the Ministry of Interior or the Public Prosecutor's Office that they have received such threats. The Ministry of Interior took note of the aforementioned "Middle East Mujahedeen in Cairo" group and is carrying out investigations regarding its existence.

#### **Replies from the Government to communications sent in previous years:**

##### **Response from the Government**

957. In a letter dated 23 November 2005, the Government replied to the urgent appeal sent on 8 August 2005 by the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture. The Government stated that the persons named in the complaint were among a group of 24 persons who were arrested while holding a demonstration in Tahrir Square on 30 July 2005 in which they attempted to antagonize the security forces and interrupted traffic in the area where the demonstration was taking place. They were taken to the Department of Public Prosecutions and the incident was recorded in higher State security case file No. 886 of 2005. They were questioned by the Department, which took a decision to release them on bail of 100 Egyptian pounds. The decision was promptly enforced and the Department of Public Prosecutions is still completing its investigations into the case. The above

information shows that the security authorities abide by the law, since the persons in question were arrested for committing acts that constitute criminal offences, and were taken to the Department of Public Prosecutions as is required by law. The Department is part of the judiciary and its members enjoy judicial immunity. The Department carried out its responsibilities by conducting an investigation according to the established legal procedures and by taking decisions thereon. The persons concerned were released on bail and the Department of Public Prosecutions is still completing its investigation into this matter.

### **Response from the Government**

958. In a letter dated 11 April 2008 the Government replied to an urgent appeal sent on 11 October 2007 by the Special Representative on human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression regarding Mr **Mohammed al-Dereini**, who runs the *Shiite Aal Beit research centre* in Cairo and Mr **Adhmad Sohb**, who is the director of the *Imam Ali Centre for Human Rights*. Both advocate for the rights of Egypt's Shi'a minority. According to information received Mr Mohammed al-Dereini and Mr Adhmad Sohb had been arrested on 8 October and 28 August 2007 on charges of having published "false information aimed at agitating public opinion" relating to torture in Egyptian prisons. They were reportedly both being detained under a decree issued under Egypt's Emergency Law, and were being held in solitary confinement in Tora Prison outside Cairo. It was further alleged that Mr al-Dereini was arrested without a search warrant.

959. The Government responded that Ahmad Mus`ad Subih and Mohamed Ramadan al-Durayni were arrested on the basis of a warrant issued by the Higher State Security Prosecution Service for giving press interviews in which they alleged falsely that prisoners were physically abused in prison, in addition to disseminating ideas contradicting and disparaging the fundamental tenets of the Islamic faith. The above-mentioned persons were presented to the Office of the Higher State Security Prosecutor and charged in Supreme State Security case No. 1061/2007 with disseminating false and tendentious statements and information, making provocative claims designed to cause a public disturbance and damage the public interest, disparaging the Islamic faith and spreading ideas contrary to the true faith and its precepts. They admitted the charges and the Office of the Prosecutor gave orders for them to be placed in custody pending further investigations. When the two accused were brought back to the Office of the Prosecutor again, the Office ordered the release of Ahmad Subih, on 10 November 2007, and that of Mohamed al-Durayni on 30 November 2007; the orders of the Office were executed.

### **Observations**

960. The Special Rapporteur wishes to thank the Government of Egypt for the responses provided to her communications of 16 May 2008, 30 June 2008, and 11 October 2008. She urges the Government to also provide substantive replies to the

communication of 18 January 2008, as well as to the case of Mr Kamal Murad, including the legal basis for his detention.

961. The Special Rapporteur hopes that the Government of Egypt will respond favourably to her request of November 2008 to visit the country in order to engage in a constructive dialogue with the authorities.

## **El Salvador**

### **Llamamiento urgente**

962. El 16 de mayo de 2008, la Representante Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **Miguel Rogel Montenegro**, Director de la Comisión de Derechos Humanos de El Salvador (CDHES). La semana del 5 de mayo de 2008, la Comisión organizó un foro internacional titulado “Impunidad Presente, Justicia Pendiente y Corte Penal Internacional Urgente”.

963. De acuerdo con las informaciones recibidas, el 14 de mayo de 2008, la sede de la CDHES en San Salvador habría recibido una llamada telefónica anónima en la cual un hombre con voz grave le habría dicho a la recepcionista, “dile a Montenegro que lo tenemos en la mira” antes de colgar inmediatamente. La CDHES habría tratado de averiguar la proveniencia de la llamada pero sin éxito.

964. Se alegó que esta amenaza en contra del Sr. Miguel Rogel Montenegro podría estar directamente relacionada con sus actividades legítimas en defensa de los derechos humanos en su calidad de Director de la CDHES. Asimismo, se temía que pudiera formar parte de un intento de impedir el trabajo de la organización mediante intimidación, particularmente en cuanto a la cuestión de la justicia por los crímenes cometidos durante el conflicto armado de El Salvador, la impunidad de los cuales sería permitida por la promulgación de la Ley de Amnistía General para la Reconciliación de la Paz de 1993. En vista de lo aquí resumido, se expresa preocupación por la integridad física y psicológica del Sr. Miguel Rogel Montenegro.

### **Respuesta del Gobierno**

965. Mediante carta fechada el 21 de julio de 2008, el Gobierno respondió al llamamiento urgente. La carta confirmó que la CDHES había organizado el seminario denominado “Impunidad presente, justicia pendiente y corte penal internacional urgente”, el 5 de mayo de 2008. También indicó que el llamamiento urgente había recibido especial atención por parte del Gobierno de El Salvador, que procedió de forma inmediata a solicitar las diligencias de investigación pertinentes a las instituciones correspondientes como son la Fiscalía General de la República y la Policía Nacional Civil, informando ambas instancias que no aparecía identificada en sus registros, ninguna denuncia interpuesta por el señor Montenegro, no obstante ello, la Unidad de Derechos humanos de

la Fiscalía General se comunicó con el señor Montenegro, a efecto de conocer de primera mano lo acontecido de propiciar el acceso a la justicia, si fuese su voluntad, y que, para tal efecto, presentara su correspondiente denuncia.

966. En seguimiento al caso, el 13 de junio de 2008, el señor Montenegro y miembros del Equipo Técnico Evaluador Número Dos, Región Central, del Programa de Protección a Víctimas y Testigos, de la Unidad Técnica del Sector de Justicia, que está bajo la rectoría de la Comisión Coordinadora de esa área de la Administración Pública, que integra la Fiscalía General, suscribieron un acta en donde el señor Montenegro manifestó que, en efecto, recibió amenazas por vía telefónica y que, por el momento, no deseaba que se le proporcionara la protección personal que le fue ofrecida por personal del Programa de Protección señalado, expresándole, además, que siempre quedaba abierta la disposición de las autoridades de proporcionarle el servicio de protección. En los mismos términos se expresó la Policía Nacional Civil, respecto a facilitarle medidas de protección si las requería.

967. La carta explicó el apoyo del Gobierno para espacios de discusión, como el que fue organizado por la CDHES, y reiteró el compromiso del Gobierno para asegurar la promoción y protección de los derechos humanos y libertades fundamentales de las personas, grupos e instituciones; el respeto al derecho a la vida y protección a la integridad física y mental, la libertad de expresión, opinión y participación política, y la observancia de los derechos establecidos en los instrumentos internacionales sobre la materia.

### **Respuestas del Gobierno a comunicaciones transmitidas en previos años**

968. Mediante carta fechada el 2 de julio de 2008, el Gobierno respondió a un llamamiento urgente del 10 de noviembre de 2006. La carta comunicó que no se había presentado ninguna denuncia por el caso. Sin embargo afirmó que uno de los señores Agentes Fiscales del Distrito de Sucumbíos realizara las investigaciones respectivas para esclarece el hecho denunciado.

### **Observaciones**

969. La Relatora Especial agradece al Gobierno por la respuesta a su comunicación del 16 de mayo de 2008. Sin embargo quiere recordar al Gobierno el Artículo 5 de la Declaración sobre los defensores de los derechos humanos que señala que “A fin de promover y proteger los derechos humanos y las libertades fundamentales, toda persona tiene derecho, individual o colectivamente, en el plano nacional e internacional: *a)* A reunirse o manifestarse pacíficamente; *b)* A formar organizaciones, asociaciones o grupos no gubernamentales, y a afiliarse a ellos o a participar en ellos; *c)* A comunicarse con las organizaciones no gubernamentales e intergubernamentales.

## **Ethiopia**

### **Urgent apeal**

970. On 23 January 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the government concerning Misses **Yalemzawd Bekele, Adane Shewa Megenta, and Alemayehu Fantu Woldeyes**. Ms Yalemzawd Bekele is a lawyer working on projects related to human rights and civil society for the European Commission's office in Addis Ababa, and a prominent civil rights lawyer who volunteered with the Ethiopian Women Lawyers' Association (EWLA), Addis Ababa. Ms Bekele was the subject of an urgent appeal by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the question of torture and Special Representative of the Secretary-General on the situation of human rights defenders on 23 October 2006.

971. According to new information received, since 15 January 2008, Ms Yalemzawd Bekele, Adane Shewa Megenta, and Alemayehu Fantu Woldeyes were being tried before the Federal High Court on the charge of participating in one of the most serious political offences in Ethiopia, under Article 32(1)(a) and 257(a) of the Revised criminal code of Ethiopia. The basis of this charge, which carries a punishment up to 10 years' imprisonment, was her alleged possession and distribution in September 2006 of a Coalition for Unity and Democracy (CUD) "calendar of civil disobedience" circulating in Moyale town in September 2006. The calendar reportedly advocated solely non-violent civic action.

972. On 19 October 2006, Ms Bekele was arrested at Moyale at the Ethiopian border with Kenya when she tried to cross the border through the official border post. She was arrested on the basis of a police warrant issued earlier in Addis Ababa in relation to police investigations into the CUD calendar. She was taken to court in Moyale, then transferred to Addis Ababa the next day and held in the Central Police Investigation Bureau known as Maikelawi. She was not taken to court again, but transferred for interrogation on 27 October 2006 to the Woreda (District) 8 police station, where over 100 CUD detainees were also held there in connection with the CUD calendar. She was reportedly arrested on the basis of a "confession" obtained under torture by one of these detainees. She was later released on the same day unharmed and unconditionally. On 25 October 2007, she was summoned to appear in court.

973. Concern was expressed that the charge against Ms Yalemzawd Bekele, Adane Shewa Megenta, and Alemayehu Fantu Woldeyes may be linked to their non-violent activities in defence of human rights in Ethiopia. Further concern was expressed that Ms Yalemzawd Bekele, Adane Shewa Megenta, and Alemayehu Fantu Woldeyes may not enjoy a fair trial.

### **Letter of allegations**

974. On 17 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a

letter of allegations to the Government in relation to concerns about the restrictions to the effectiveness of human rights organizations in Ethiopia that might result from the adoption and implementation of the **draft law “Charities and Societies Proclamation”**.

975. According to information received, there were concerns that the Charities and Societies Proclamation (hereinafter “the Proclamation”) would result in an excessive control of the activities of civil society organizations (CSO) by the Government. The Proclamation had a narrow definition of Ethiopian CSOs whereby if any of a CSO’s members were foreign or more than ten per cent of its funding came from foreign sources the CSO would be classed as foreign and would therefore face the same restrictions which would be placed on foreign non-governmental organizations (NGOs) under the Proclamation. These restrictions included prohibition from work in certain fields, including human rights, unless the NGO in question was chosen as an exception by the government.

976. A taskforce of CSO representatives brought concerns about the Proclamation to the attention of the Minister of Justice and the Prime Minister in meetings held on 6 May and 24 May 2008, respectively. While the Government of Ethiopia was encouraged to engage in regular consultations with CSOs, particularly on draft laws affecting them, concerns were expressed at the provisions of the draft Proclamation.

977. In particular, concern was expressed about provisions in the Proclamation, which threatened to curtail freedom of association and freedom of expression in Ethiopia by introducing penalties of up to 15 years’ imprisonment for attending meetings of unregistered NGOs or disseminating information in the interests of unregistered charities.

978. Under the Proclamation the Government would be at liberty to decide whether NGOs should be legally registered or not through the Charities and Societies Agency (CSA), a body which would be established with the adoption of the Proclamation. The CSA would be accountable to the Ministry of Justice; its Director would be appointed by the Prime Minister after being nominated by the Minister for Justice; and its Deputy Directors would be appointed by the Minister for Justice after being nominated by the Director. Only NGOs registered under the CSA would be allowed to operate. NGOs recognized within the existing legislation would have to re-register and would possibly run the risk of not being granted registration by the CSA. Concern was also expressed that the CSA would have the authority to appoint and dismiss NGO officials while the Proclamation would remove the right of NGOs to appeal the decisions of the CSA in an independent court. NGOs would also be obliged to inform the CSA of any meetings with at least a week’s notice. The CSA would then be allowed to send an investigator to participate and report, search the property of organizations and confiscate documents without a warrant, thus breaching the right to privacy of the NGOs.

979. Further concern was expressed at the position taken by the Prime Minister, who reportedly stated that rules against foreign NGOs, foreign contributions to local organizations and the participation of foreign NGOs in areas such as human rights were a way of protecting Ethiopia against foreign intervention.

Concern was expressed that the Charities and Societies Proclamation would restrict the legitimate work of Ethiopian CSOs and NGOs and international NGOs, including work in the defense of human rights. The Government of Ethiopia was therefore urged to consider revising the draft in compliance with international norms, standards and recommendations.

### **Observations**

980. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to the communication of 23 January 2008 and 17 July 2008. She considers response to her communications as an important part of the cooperation of Governments with her mandate, and urges the Government to respond to the concerns raised by her.

981. The Special Rapporteur wishes to put on record her continued concern with regard to the new NGO law, which was the subject of a further communication to the Government beyond the reporting period of the present report. The Special Rapporteur is deeply concerned about the effects of the law on both the sphere of the Ethiopian civil society, as well as on potentially compromising the action of the United Nations in the country.

## **Fiji**

### **Urgent appeal**

982. On 14 April 2008, the then Special Representative, jointly with the Vice-Chairperson of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal on the situation of the situation of Ms **Shammima Ali**, Coordinator of the Fiji Women's Crisis Center, Ms **Edwina Kotoisuva**, Deputy Coordinator of the Fiji Women's Crisis Center, Ms **Tevita Seruilumi**, Legal Officer of the Fiji Women's Crisis Center, Ms **Noelene Nabulivou**, Coordinator of Women's Action for Change, Ms **Unaisi Dobui**, Ms **Tara Chetty**, Ms **Susan Naidu**, Ms **Michelle Reddy**, Ms **Neihmah Khan**, Ms **Claire Slatter**, Ms **Shirley Tagi** and Ms **Marlene Datta**, all members of the Fiji Women's Rights Movement. According to the information received:

983. On 10 April 2008, the aforementioned twelve women human rights defenders were arrested and detained by the police as they stood peacefully at the seawall opposite the Chinese Embassy at Nasese Road, Suva Point, Queen Elizabeth Drive in Suva. The protest was organized in connection with the current events in the Tibet Autonomous Region in China.

984. Concern was expressed that the arrest and detention of the aforementioned twelve human rights defenders may be solely linked to their reportedly non-violent



activities in defense of human rights, in particular in the exercise of their rights to freedom of expression and assembly.

### **Observations**

985. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications of 25 January 2007, 29 January 2007 (x2), 29 January 2007 and 14 April 2008. She considers response to her communications an important part of the cooperation of Governments with her mandate. She urges the Government to respond to the concerns raised by her, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

### **France**

#### **Réponse du Gouvernement à une communication envoyée avant le 11 décembre 2007**

986. Par une lettre datée du 21 février 2008, le Gouvernement français a répondu à la lettre d'allégation transmise le 30 novembre 2006 concernant la situation des **autochtones Wayanas et Emerillons des villages Kayodé (Cayodé) et Elahé (Elae)**, sur les rives de la rivière Waki-Tampok, dans la commune de Maripasoula en Guyane. Le Gouvernement a indiqué que depuis la fin du XIX<sup>ème</sup> siècle, les activités d'orpaillage menées en Guyane sont à l'origine de rejets de mercure dans l'environnement et principalement dans certains cours d'eau et fleuves et que les populations amérindiennes du Haut Maroni, les Wayanas et les Tekos, très consommatrices de poissons, demeurent les plus exposées au risque mercuriel. Le Gouvernement a détaillé les mesures entreprises depuis la découverte en 1994 de poissons contaminés par le mercure, et notamment une série d'études et d'enquêtes menées pour améliorer la connaissance sur ce phénomène, la création d'un pôle interministériel-mercure placé sous l'autorité du préfet, l'organisation de séminaires rassemblant des experts, des autorités étatiques et les communautés affectées, des actions de sensibilisation et un programme d'actions globales visant à réduire l'imprégnation mercurielle à l'horizon 2008. En ce qui concerne la lutte contre l'orpaillage clandestin, le gouvernement a indiqué qu'il a renforcé les dispositifs législatifs et réglementaires répressifs. A titre d'exemple, le gouvernement a indiqué que les autorités judiciaires peuvent autoriser la destruction *in situ* des matériels utilisés dans les sites d'orpaillage clandestine, ce qui a permis de porter atteinte à la rentabilité de ces activités. La lutte contre l'orpaillage aurait aussi bénéficié de l'augmentation de moyens humains et matériels mis en place à ce propos, ce qui se serait traduit en un plus grand nombre d'opérations sur le terrain. Le Gouvernement a précisé que malgré les mesures entreprises, les orpailleurs clandestins continuent de se procurer le mercure dans d'autres pays d'Amérique Latine. Par ailleurs, les services enquêteurs ont mis en lumière un système organisé par certains membres des populations amérindiennes locales, qui exigeraient des orpailleurs clandestins, le paiement en or par mois et par pirogue d'une « taxe de droit de passage ». En relation avec le tracé du cœur du Parc amazonien de

Guyane, le Gouvernement a informé que ce tracé résulte d'un compromis trouvé localement le 12 juin 2006 lors d'une réunion organisée par la municipalité de Maripasoula, à Elahé en pays Wayana, à la suite de discussions approfondies, associant étroitement les autorités coutumières amérindiennes et les représentants des populations traditionnelles alukus du bourg. De plus, le Gouvernement a indiqué qu'il n'a pas jugé possible de répondre aux conclusions et recommandations de la Commission d'enquête sur l'extension du cœur du parc, car cela aurait impliqué d'agrandir le cœur du parc national de plus de 20%, ce qui nécessitait un délai supplémentaire imposé avant la création du parc, compte tenu des consultations qu'il y aurait eu à mener et ce qu'il aurait fait courir le risque de compromettre le projet. Le Gouvernement a indiqué son souhait de prendre en considération les demandes d'agrandissement lors d'une étape ultérieure et qu'à ce propos des démarches seront engagées dans le cadre du calendrier d'élaboration de la Charte du Parc qui devrait avoir lieu au plus tard en 2012. Finalement, le gouvernement a précisé que sur les territoires mentionnés par les Rapporteurs et sur le tiers Sud de la Guyane, un arrêté préfectoral du 14 septembre 1970 interdit à toute personne de pénétrer en l'absence d'autorisation préalable du Préfet et que cet arrêté exclu de fait l'octroi de toute autorisation d'exploitation minière. La préfecture a décidé de surcroît d'interdire progressivement mais définitivement le mercure dans les activités d'orpaillage à compter du 1<sup>er</sup> janvier 2006.

#### **Observations**

987. La Rapporteuse spéciale remercie le Gouvernement de sa réponse.

### **Gambia**

#### **Urgent appeal**

988. On 1 April 2008, the then Special Representative, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal on the situation of Mr **Yaya Dampha**, a journalist who worked for the Gambian newspaper Forayya and investigated cases of enforced disappearances, arbitrary detention, torture and other human rights violations. On 6 October 2007, Mr Dampha was arrested for "espionage", and was conditionally released six days later. Continuous threats against him and his family reportedly from agents of the National Intelligence Agency (NIA) forced Mr Dampha to seek refuge in Senegal. Mr Dampha was the subject of a joint allegation letter sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 11 October 2007. According to the information received:

989. On 10 March 2008, two members of NIA reportedly visited in Senegal the residential complex where the flat of Mr Dampha is located, and asked his neighbours where he was. Mr Dampha then approached the two men who invited him to follow them immediately in order to discuss "an urgent matter". Facing the refusal of Mr Dampha, a third agent was called to force him to enter a car without any license plate. Screams of

protest and requests for help from Mr Dampha alerted the neighbours and people quickly gathered around the vehicle. The three NIA agents then fled the scene.

990. On 11 March 2008, members of the National Intelligence Office of Senegal (Bureau national de renseignement du Sénégal) reportedly invited Mr Dampha to file a complaint, and told him that an investigation on this incident will be conducted.

991. Concern was expressed that the attempt to abduct Mr Dampha in Senegal as well as the acts of harassment against him and his family which reportedly forced him to flee Gambia may be linked to his non-violent activities in defense of human rights.

### **Observations**

992. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications of 11 October 2007 and 1 April 2008. She considers response to her communications an important part of the cooperation of Governments with her mandate. She urges the Government to respond to the concerns raised by her, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

## **Georgia**

### **Urgent appeal**

993. On 8 September 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning Mr **Saba Tsitsikashvili**, a journalist and HRIDC coordinator for the Shida Kartli region of Georgia. According to the information received, on 1 September 2008 Mr Tsitsikashvili was covering a demonstration in Karaleti village, Shida Kartli region, when he was physically and verbally assaulted by several high-ranking officials. Mr Lado Vardzelashvili, the Governor of Shida Kartli and Mr Zurab Chinchilakashvili, the Deputy Governor grabbed him and threatened him with disappearance if he continued his activities. After this verbal abuse two unknown persons appeared and beat his ribs and legs. Afterwards he was again beaten near the car of the Governor of Gori District, Mr Davit Khmiadashvili, in the presence of the Deputy District Governor, Mr Giorgi Kvitsinadze.

994. Concern was expressed that the physical and verbal harassment of Mr Tsitsikashvili may be solely connected to his peaceful activities in the defence of human rights. Further concern was expressed regarding the physical and psychological integrity of Mr Tsitsikashvili.

### **Response from the Government**

995. In a letter dated 22 October 2008, the Government responded to the communication sent by the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, on 8 September 2008. The Government assured that it is fully aware of obligations incumbent upon it by the Declaration on human rights defenders. The Government noted that it deemed the physical and psychological integrity of Mr Tsitsikashvili is of utmost importance and that it is at the same time cognizant of his rights to freedom of expression and the right to pursue his activities as a journalist. The Government reported that on 5 October 2008, the Gori District Unit of the Ministry of Internal Affairs of Georgia initiated an investigation into the alleged unlawful interference in the journalistic activity of Mr Tsitsikashvili, a crime sanctioned in Article 154 of the Criminal Code of Georgia. The Government also noted that Mr Tsitsikashvili has never applied to the police concerning the facts mentioned in the communication, and the investigation was launched in response to the letter received from the Office of the Public Defender (Ombudsman) of Georgia. In the course of the investigation Mr Tsitsikashvili was interrogated as a victim and other investigative activities are being carried out. The Government also noted that it will provide further updated information on the developments of the case.

**Response from the Government to communications sent in previous years:**

996. On 28 February 2008, the Government responded to an urgent appeal sent by the then Special Representative of the Secretary General on the situation of human rights defenders, the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the question of torture on 13 November 2007. The response stated that the incident on 7 November 2007 represented part of the chain of events that developed since the beginning of November 2007 in Georgia. Therefore, the measures taken were aimed at restoring the public order and responding to the national security concerns existing within the country in the course of the existing situation. It is the position of the Government that it has acted in accordance with the international norms and standards that govern the limitation of certain rights and freedoms as well as situations of national emergency. Namely, Georgia as a party of the International Covenant on Civil and Political Rights (ICCPR) has abided to the rules and procedures emanating from the aforementioned treaty.

997. By early November 2007, demonstrations had already violated the Law of Georgia on Assembly and Manifestation on numerous counts. For instance, the law prohibits intentionally hindering the movement of public transport. Furthermore, the organizers had notified the Tbilisi Municipality that the demonstration would start on 2 November and by continuing on the following days, the organizers were in violation of the law on this count as well. The Law of Georgia on Assembly and Manifestation explicitly states that the notification should, among other things, indicate the starting and finishing dates of the meeting, as long as the demonstration results in closing the traffic. The notification submitted in advance mentioned only 2 November as the date of the demonstration, therefore, covered only one day – 2 November 2007.

998. When it became evident that the population was leaving Rustaveli Avenue, the organizers of the demonstration had begun to explicitly call for civil unrest and the violent overthrow of the Government. Despite these grave violations of Georgian law and multiple attempts to provoke patrol police, for five days the police refrained from interfering in the rally to avoid the escalation of the situation as well as not to hinder the full enjoyment of the rights of the protestors. During the morning of 7 November, the number of protestors declined to approximately 100 individuals. Tbilisi City municipality decided to reinstate traffic flow, since neither any legal or factual basis existed to keep the street and traffic blocked. The sanitary conditions on the streets had become alarming and the City Municipality started the cleaning of the area.

999. At 8 a.m., with only a few minor incidents with protestors, the area was cleaned up and traffic restored. At 9 a.m., Tbilisi Mayor informed the public that the Government would no longer tolerate the unlawful blockage of the Rustaveli Avenue and the setting up of tents. The demonstrators were told that they could continue demonstrations in front of the Parliament and on the sidewalk. At 11 a.m., the opposition leaders started to escalate the situation by drawing parallels with the revolutionary and tragic events of 9 April 1989. They called people to come to the streets “to put an end to the Government” and instigated clashes with police in order to block Rustaveli Avenue. After three attempts to block the street the protestors forced the police out. Numerous police officers were injured and several police cars were crushed. The riot police were summoned only after the demonstrators started to violently attack policemen and smash patrol cars. It became necessary to bring to the site certain units of the criminal police in order to handle the violence from the protestors, since they were growing and beginning to outnumber the police. Before the riot police were brought, demonstrators were warned through the loud speaker, on a recording which was played for approximately 17 to 20 minutes, to dissolve peacefully, otherwise force would be used. The opposition leaders defied this legitimate request and made further radical statements inciting the protestors to even greater violence. It was decided to resort to water cannons at that point, after the request to dissolve peacefully was repeated, including a specific announcement for women, children and the elderly. The water cannons were used in a manner to avoid direct pressure and minimize damage or harm to protestors.

1000. Some protestors left Rustaveli Avenue but new demonstrators came, incited by the calls of opposition leaders. They started to throw stones *en masse* at the police and smash police cars. As the use of water cannons proved ineffective, police resorted to the use of tear gas in a way to ensure that the dissolution of the public gathering would not result in causing damage among the protestors as they attempted to leave the avenue. It had the temporary but not immediate effect of incapacitating some protestors: many left the avenue; some stayed and became more violent. The policemen resorted to rubber bullets in order to prevent attacks from specific individuals and protect the building of the parliament, which was approached by groups of protestors aiming to break into the building. The police managed to unblock Rustaveli Avenue only after the use of the above special means. These means and the modalities of their use were in strict compliance with Georgian legislation.

1001. At 2.05 p.m., the Speaker of the Parliament called upon the leaders of the opposition to engage in dialogue. Her invitation was ignored and the opposition leaders called the remaining parts of the crowd, inciting the demonstrators to continue the rally in the river bank area. They explicitly incited violence, calling for the forceful attack on the Parliament and other Government buildings. Before resorting to force in the river bank area, the police repeated the standard warning to dissolve peacefully several times. The warnings were ignored so the gathering was dissolved with the use of rubber bullets, the location being such that the use of tear gas or water cannons was unsuitable given that demonstrators might have jumped into the water, possibly resulting in fatalities. Tear gas was only used against a group which was throwing stones at policemen from the heights of Avlabari.

1002. As the police tried to restore order and disperse the demonstrators, “Imedi TV” started broadcasting false and inflammatory alerts that the police were about to attack the main Orthodox Cathedral in Tbilisi. This was in effect incitement of hundreds of thousands of citizens to defend their Church. Georgian legislation envisages the possibility of restriction of certain categories of human rights in situations of emergency. The Constitution of Georgia allows the Government to limit freedom of expression for preservation of vital state interests. In that respect, Georgian legislation is in line with international standards set in authoritative conventions to which Georgia is party, which also envisage the possibility of limitations on this right. Assessing the threat posed by continued broadcasting of “Imedi TV” as being imminent and irrevocable, the Government decided to temporarily interrupt broadcasting of “Imedi TV”. At 8.30 p.m., a special task force of the Ministry of Internal Affairs entered the TV station and halted its broadcasting. As Imedi was directly broadcasting via a satellite positioned on its premises, it was impossible to take the company off the air without entering the building. While the Ministry of Internal Affairs unit entered the building, information about the police presence was broadcast and people started gathering outside the gates of the building. While journalists left the building, the danger that people would attempt to intrude in the building became evident; a crowd of 200 individuals was approaching the building and throwing stones and other objects at the policeman defending the building. The police requested for the gathered population to dissolve peacefully, but the crowd became more violent, necessitating the use of tear gas and rubber bullets, due to close contact.

1003. By the order of the Criminal Law Division of Tbilisi City Court of 7 November 2007, the property of “Imedi TV” LTD was seized. The owner of this property was prevented from using it, including the private broadcasting license under its tenure, since there was sufficient reason to believe that the property in question would be used for the commission of crime, specifically for the violent overthrow of the Government. As soon as this risk was minimized, a court decision on 6 December 2007 restored Imedi TV broadcasting. Meanwhile the broadcasting of “Kavkasia” was interrupted due to technical problems caused by the attempts to interrupt Imedi broadcasting. As soon as the technical problem was solved, broadcasting was resumed.

1004. Criminal investigation for each specific case where allegedly excessive force was used is under the investigation of the office of the General Prosecutor. Meanwhile the Ministry of Internal Affairs has completed internal administrative inquiries, as a result of which 11 police officers have been dismissed from the Ministry due to incompliance with the ministerial instructions and confrontation with the civilian. The Ministry has identified specific weaknesses, especially in training, and has initiated measures to improve police capacity.

1005. With respect to freedom of assembly, article 21 of the ICCPR uses the term “in conformity with the law”. Therefore it is not necessary to formally set forth freedom of assembly in the law. Georgian legislation sets a higher standard than that of article 21 and explicitly provides for relevant requirements in the law. Article 25 of the Law and Georgia on Assembly and Manifestation provides for the right to freedom of assembly and manifestation, but the right can be restricted when the manifestation gains an unlawful nature. Under Article 4§2 of the Law it is prohibited to deliver incitements aimed at trumping the constitutional order of the country or the violent overthrow of it, or infringing the territorial integrity and independence of the country. Under Article 11 it is prohibited to intentionally block public transport in the course of an assembly. Article 13 provides that the manifestation should be suspended at the request of the authorized official if it is being held in violation of Article 4§2 and Article 11.

1006. On 15 November 2007, the Tbilisi Main Division of Internal Affairs launched an investigation on the criminal case No 10070583 in the alleged infliction of physical injury upon the Public Defender of Georgia, Mr. Sozar Subari, the crime envisaged under Article 118§1 of the Criminal Code of Georgia. By the decision of the Deputy Prosecutor General the case was transferred to the Investigative Department of the Office of the Prosecutor General for further investigation. The organ conducting the investigation on several occasions asked Mr. Subari to appear before it. Mr. Subari was interrogated on 24 November 2007 and the forensic medical expertise for the determination of his injuries was carried out. At the time of writing, all the necessary investigative measures were being taken in order to establish the truth on the case and prosecute the offenders.

1007. On 10 November 2007, Zveli Tbilisi District Prosecution Office initiated a preliminary investigation, on grounds of Article 118 (3), on the criminal case No 06079035 on the fact of bodily injuries inflicted upon several persons as a result of the activities that took place on 7 November 2007. The case was transferred to the Investigative Unit of the Tbilisi city Prosecution Office for further investigation. In addition to the evidence gathered in course of an investigation, the materials sent from the Office of the Public Defender of Georgia, concerning bodily injuries inflicted on 12 citizens as a result of the events of 7 November 2007, were attached to the case. Five of these citizens were treated in hospitals. Seven were detained, four of whom were in the N5 prison of the Penitentiary Department of the Ministry of Justice at the time of writing. Pre-trial detention as a measure of constraint against one person was replaced by a bail and 2 persons were held under administrative detention. Forensic medical examination was conducted on the basis of the medical notes for 11 of the 12 citizens. For health

reasons, a forensic medical examination could not be conducted for one of the 12 citizens.

## **Observations**

1008. The Special Rapporteur thanks the Government of Georgia for the response provided to the communication of 8 September 2008. The Special Rapporteur is looking forward to receiving further updated information in this case, as foreshadowed by the Government.

## **Greece**

### **Letter of allegations**

1009. On 25 January 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance, sent a letter of allegations to the Government concerning Mr **Panayote Dimitras**, spokesperson for the Greek Helsinki Monitor and a member of the OMCT Assembly of Delegates, Ms. **Andrea Gilbert**, GHM's specialist on anti-Semitism, and Messrs. **Moses Konstantinis**, **Benjamin Albala**, **Abraham Reitan** and **Leon Gavriilidis**, four members of the Central Board of Jewish Communities in Greece (Kentriko Israilitiko Symvoulío - KIS),

1010. According to information received; all of the aforementioned testified against Mr Kostas Plevris on 4 December 2007 during a trial against him and the extreme-right newspaper Eleftheros Kosmos which had published articles from Mr. Plevris' anti-Semitic book entitled *The Jews - The whole truth*. In the book, Mr. Plevris reportedly alleges that "Jews are sub-human, mortal enemies and worthy of the firing squad", that "Hitler is only criticized for not clearing Europe of the Jews" and that "[Auschwitz] is rightly preserved in good condition, because nobody knows what might happen in the future". Mr Plevris was convicted of 'incitation to racial violence and hatred and for racial insult' and was reportedly given a 14-month suspended sentence.

1011. Following the trial on 4 December, Mr Dimitras was verbally abused by a journalist who reportedly tried to assault him. Later that evening, a video showing the attempted assault was uploaded on the internet with messages inciting viewers to take action against Mr Dimitras. Threatening messages have also been found on fora linked to extremist right movements in Greece. Mr Plevris has also reportedly taken legal action against the aforementioned, accusing them of defamation. Further complaints have been filed by Mr Plevris against GHM and NGOs in general reportedly claiming they are redundant, illegal and implying they are foreign agents. It is alleged that these complaints again contain racist and defamatory comments; however trial dates have reportedly been set for later in 2008.



1012. Concern was expressed that the harassment of the aforementioned, the threats made against them and the judicial proceedings initiated, may be directly linked to their human rights activities, particularly their activities against discrimination and anti-semitism in Greece.

### **Response from the Government**

1013. On 18 April 2008, the Government responded to the communication sent 25 January 2008. The Government emphasized that Mr. K. Plevris was sentenced to fourteen months of imprisonment by the Court of Appeals of Athens, with suspension, on the grounds that he "publicly and intentionally incited, through the press, the commission of acts and activities conducive to discrimination, hatred and violence against persons and groups of persons, on the sole basis of their racial and national origin, while at the same time he expressed ideas which are insulting against a group of persons due to their racial and national origin, namely the Jews".

1014. According to the Government, the sentence was in conformity with the Greek Constitution. In addition, Law No 927 of 1979 criminalizes acts or activities aiming at racial discrimination, in implementation of both the relevant constitutional provisions as well as of the relevant international obligations of the country, particularly those deriving from the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the European Convention for the Protection of Human Rights and Fundamental Freedoms. In the case against Mr. Plevris, the Government emphasized that the prosecution for anti-Semitic propaganda took place proprio motu in application of the provisions of the said law, which criminalizes acts or activities aiming at racial discrimination, as amended, in order to provide for proprio motu prosecution, without any need for individual complaints. There was no information with regard to Mr. Dimitras' claims about verbal attack and threats against him as described in the urgent appeal, as no relevant complaint has been filed to the Greek Authorities. Furthermore, Mr. Plevris, who has been sentenced to fourteen months of imprisonment, with suspension, has filed two lawsuits and has also lodged complaints in order to restore the moral damage which he claims to have suffered due to the alleged malicious defamation of his person by Mr. P. Dimitras and others as mentioned on your letter, on the basis that they testified against him in the above mentioned trial as well as because, as he claims, they systematically and publicly support views in a manner which constitutes an insult against his personality. The government emphasized that these cases are pending.

1015. The first lawsuit was filed in January 2007 against Mr. Moses Konstantinis, Mr. Benjamin Alcala, Mr. Abraham Reitan, Mr. Leon Gavriilidis, Mrs Andrea Helen Gilbert and Mr. Panayote Dimitras. This case was to be discussed on January 24<sup>th</sup> 2008, but the court decided not to go ahead with the case. The second lawsuit was filed on 25<sup>th</sup> of January 2007 against Mr. Panayote Dimitras and the Greek Helsinki Monitor. This case was to be discussed on February 7<sup>th</sup> 2008, but at the court house only the plaintiff was

present, the defendants did not appear and a request for postponement was filed. This case is now to be tried on October 10<sup>th</sup> 2009.

1016. The Government reiterated that it is the right of any Greek citizen to launch judicial proceedings and this cannot in any way be considered as a judicial harassment. The same right applies both to Mr. Dimitras and to Mr. Plevris.

### **Urgent appeal**

1017. On 29 October 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning Mr **Makis Nodaros**, a journalist and human rights defender. Mr Nodaros works for the Athens daily Eleftherotypia, the Patras daily Imera, the Patras TV station Teletime, and the Patras radio station Radio Gamma, and he is host of the daily programme of the Elia radio station Ionian FM.

1018. According to the information received, on 23 October 2008, Mr Makis Nodaros was attacked by unidentified men as he was returning home after his morning radio show. Two individuals attacked him and beat him until he fell down and started bleeding. They also stole his mobile phone and tried to break his laptop. The assailants later fled on a motorcycle.

1019. Mr Makis Nodaros published several articles recently exposing corruption and mismanagement of relief aid received by local authorities for victims of the forest fires of 2007. He also wrote articles about an alleged corruption case involving the mayor of Zacharo.

1020. Concern was expressed that the assault on Mr Nodaros could have been related to his work in defence of human rights, especially his articles about alleged corruption and mismanagement cases involving local officials and authorities. Further concern was expressed that the aforementioned events may have represented a direct attempt to prevent independent reporting in Greece, thus stifling freedom of expression in the country.

### **Response from the Government**

1021. In a letter dated 9 December 2008, the Government responded to the urgent appeal. The Government stated that according to Mr. Nodaros's deposition to the Police Authorities, the two perpetrators of the attack against him were waiting for him outside his home address on 23 October 2008 and, after making sure of his identity, they attacked him, although not provoked, by fists and kicks, causing him bodily injuries (art. 308 A' of the Penal Code). During the incident and as a result of it, Mr. Nodaros dropped his laptop and his mobile phone, which were subsequently taken by the perpetrators (art. 372 of the Penal Code) who left the scene by motorcycle. Immediately after the incident Mr. Nodaros went to the Health Centre of Gastouni where he was examined by doctors. It

was found that he had suffered scratches on his elbow, his knee and the hair part of his head. After he was treated accordingly, he left the hospital.

1022. The Police Station of Lechaina became involved in the case as soon as it was notified and started inquiries together with the Sub-Directorate for Public Safety of Pyrgos and the Security Division of Amaliada under the supervision of high-ranking officers of the competent Police Directorate. A preliminary investigation was also initiated by the Sub-Directorate for Public Safety of Pyrgos under the monitoring and supervision of the Public Prosecutor's Office of Amaliada. Both investigations for substantiating the facts of the case and finding the perpetrators are under way, but no conclusive result has been reached so far. The two perpetrators have not been identified yet. All possible aspects are under investigation, since all allegations concerning journalists, whether human rights defenders or not, are of particular importance.

1023. According to Mr. Nodaros, the assault on him is related to a story he had published in the newspaper he is working for, concerning illegal construction activities in the "KAIAFA" forest of Zacharo. Apart from that, however, the police authorities are also investigating a possible connection to some other cases that Mr. Nodaros's research had brought to the surface. These cases include alleged corruption of public servants, issues concerning environmental protection etc. that may have led some people to commit the aforementioned acts.

1024. The letter expressed the Greek authorities' intention to look, in depth and to the extent possible, into the case under discussion since they attach the utmost importance in upholding the provisions of the Greek Constitution and the respective Laws as well as those arising from relevant international obligations of the country.

### **Observations**

1025. The Special Rapporteur thanks the Government of Greece for the detailed responses provided to both her communications. Regarding the case of Mr Makis Nodaros, the Special Rapporteur is looking forward to receiving further information about the outcome of the investigations and the prosecution.

## **Guatemala**

### **Llamamiento urgente**

1026. El 14 de enero de 2008, la Representante Especial, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **Carlos Enrique Mancilla García**, Secretario de Trabajo y Conflictos de la Confederación de Unidad Sindical de Guatemala (CUSG), organización afiliada a la Confederación Sindical Internacional (CSI).

1027. Según la información recibida, la noche del 31 de diciembre de 2007, la vivienda del Sr. Enrique Mancilla García, ubicada en el municipio de Villa Nueva, habría sido

atacada con armas de grueso calibre. Según se informa, individuos no identificados habrían disparado en varias ocasiones contra el domicilio. Al producirse estos hechos, no se encontraba nadie en la vivienda. El 1° de enero de 2008, el Sr. Carlos Enrique Mancilla García habría recibido alrededor de 10 llamadas telefónicas en su domicilio sin que nadie hablara cuando se atendió el teléfono. Se informó que ya se habían presentado las correspondientes denuncias ante la Procuraduría de los Derechos Humanos (PDH) y ante el Ministerio Público y que el Sr. Mancilla García habría solicitado que se tramitaran medidas precautelares de seguridad perimetral para él y para su familia.

1028. Se temía que el ataque y las amenazas en contra del Sr. Carlos Enrique Mancilla García estuviesen relacionados con su trabajo en defensa de los derechos laborales.

### **Respuesta del Gobierno**

1029. Mediante dos cartas fechadas el 20 de marzo de 2008 y el 26 de junio de 2008, el Gobierno respondió al llamamiento urgente. Las cartas confirmaron las alegaciones del llamamiento urgente; que el Sr. Carlos Enrique Mancilla García manifestó ser víctima de amenazas así como disparos de arma de fuego en lugar de su residencia el 31 de diciembre de 2007.

1030. La carta fechada el 26 de junio de 2008 indicó que el Ministerio Público se han requerido autorización del juez competente para obtener información de las llamadas telefónicas realizadas a la víctima; se ordenó inspección en el lugar de los hechos; se entrevistó a testigos y requirió información a investigadores, entre otros. El Ministerio de Gobernación informó que no existen registros de ninguna denuncia presentada por el Sr. Mancilla García ante la Policía Nacional Civil.

1031. Asimismo, la carta fechada el 26 de junio que el Ministerio de Gobernación se dieron instrucciones al personal de la policial de la Subestación 16-52 en Ciudad Peronia, para que brindara vigilancia perimetral en la residencia de dicha persona, a quien también se le proporcionaron números de teléfono para cualquier comunicación. Asimismo, se ordenó admitir al señor Mancilla García dentro del servicio de protección desde el 18 de febrero de 2007 por el tiempo que fuera necesario.

### **Carta de alegaciones**

1032. El 21 de enero de 2008, la Representante Especial, envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el asesinato del Sr. **Felipe Álvarez**, integrante del Consejo Comunitario de Desarrollo (COCODES), de la comunidad del Microparcelamiento El Naranjo, Santa Lucía Cotzumalguapa, en el departamento de Escuintla al sur de Guatemala. Los Consejos Comunitarios de Desarrollo se crearon en el 2002, como parte de los Acuerdos de Paz de 1996, para promover la participación de la sociedad civil en el proceso democrático. El COCODES de El Naranjo desempeñó un papel principal en la prohibición de la venta del alcohol después de las 9 de la noche para tratar de reducir la violencia callejera y la presencia de pandillas.

1033. Según la información recibida, en la madrugada del 8 de diciembre de 2007, Felipe Álvarez habría salido de su casa en bicicleta, dirigiéndose a una finca donde trabajaba. Se habría hallado su cuerpo al lado de la carretera ese mismo día a aproximadamente las 5.45 de la mañana. Se le habría disparado tres veces en la espalda y una vez en la cabeza. Antes del asesinato, se le habría seguido varias veces a Felipe Álvarez.

1034. Se temía que el asesinato de Felipe Álvarez esté directamente vinculado con su trabajo en defensa de los derechos humanos, en particular con las actividades llevadas a cabo como integrante del Consejo Comunitario de Desarrollo. El fallecimiento de Felipe Álvarez era el tercer asesinato de integrantes del Microparcelamiento El Naranjo, quedando dos integrantes, el Sr. Juan Francisco Almira y el Sr. Manuel Antonio Aguita. Se temía por su seguridad y la de los miembros de sus familias.

### **Respuesta del Gobierno**

1035. Mediante tres cartas fechadas 20 de febrero, 31 de marzo y 6 de mayo del 2008, el Gobierno respondió a la carta de alegaciones. La cartas fechadas del 20 de febrero confirmaron las alegaciones de que el 8 de diciembre de 2008, el Sr. Felipe Álvarez fue encontrado sin vida a consecuencia de heridas producidas por proyectil de arma de fuego. La carta fechada 8 de diciembre confirmó asimismo que la víctima fungía como vocal de seguridad del micro-parcelamiento El Naranjo y que sí, existe una denuncia sobre el caso. La carta informó que el Ministerio Público realizó una serie de diligencias entre ellas: se solicitó la necropsia del agraviado; se practicaron allanamientos en el parcelamiento; se entrevistó a varias personas y se ofició al departamento de Investigaciones Criminalísticas de la Policía Nacional Civil para la investigación correspondiente. Asimismo, se distinguió que en relación con la seguridad de los Sres. Juan Francisco Almira y Sr. Manuel Antonio Aguita y los miembros de sus familias, se solicitó al Director General de la Policía Nacional Civil se nombraran elementos para brindarles seguridad personal y que se solicitó al Director de Protección a Testigos del Ministerio Público incluir a dichas personas en el programa de protección a testigos.

### **Llamamiento urgente**

1036. El 20 de marzo de 2008, la Representante Especial, junto con la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, envió a la atención urgente del Gobierno la información sobre las amenazas supuestamente recibidas por la Sra. **Aída del Rosario López Cordero**, coordinadora de la Defensoría de la Mujer en la Procuraduría de Derechos Humanos en el departamento de Quiché.

1037. Según las informaciones recibidas, la Sra. López Cordero habría jugado un papel destacado en el procesamiento de dos agentes de policía ante la justicia por la violación de una mujer indígena, la Sra. Juana Méndez, violada bajo custodia policial en 2005. En 2007 se habría acusado a dichos policías por un delito de violación con agravantes y

abuso de autoridad. Uno de ellos habría sido detenido, pero el otro se encontraría huido de la justicia.

1038. La segunda vista oral del juicio habría tenido lugar el pasado 25 de febrero. Esa tarde, la Sra. López Cordero habría recibido en su teléfono móvil una llamada de un hombre que la amenazaba. La noche del 2 de marzo, unos desconocidos habrían escrito con spray "VC3 M18", el nombre de una banda callejera, en el muro de la casa de la Sra. López Cordero. Dichos desconocidos habrían roto también luces de la entrada de su casa y las bombillas de las farolas de su calle.

1039. El 6 de marzo, a las 4:24 de la tarde, la Sra. López Cordero habría recibido en su teléfono móvil una llamada de un hombre que habría afirmado ser un recluso de una prisión de la Ciudad de Guatemala y luego habría colgado. La Sra. López Cordero nunca habría tenido contacto con los reclusos de la prisión, y el número de su teléfono móvil sólo lo conocerían sus familiares y amistades.

1040. Se temía que estas amenazas estén relacionadas con el trabajo de defensa de los derechos humanos de la Sra. López Cordero, en particular con el caso que está investigando sobre la violación de una mujer indígena. Se expresó preocupación por la seguridad e integridad de la Sra. López Cordero.

### **Respuesta del Gobierno**

1041. Mediante cartas fechadas el 17 de abril de 2008 y el 1 de julio de 2008, la Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos (COPREDEH) y el Ministerio de Relaciones Exteriores respectivamente respondieron al llamamiento urgente por parte del Gobierno de Guatemala. La carta de la COPREDEH comunicó que los hechos de intimidación contra la señora Aída del Rosario López Cordero fueron denunciados a la fiscalía departamental del Ministerio Público (expediente número MP226/2008/564 10 de marzo 2008). En el oficio número 252-2008 Ref. REFF/jrm de 4 de abril de 2008 el comisario sub jefe de comisaría 71 de Santa Cruz del Quiché, informó que la Policía Nacional Civil delegó a la sub estación 71-11 con sede en El Quiché, efectuar recorrido perimetral a la Defensoría de la Mujer en la auxiliatura del Procurador de Derechos Humanos, con el fin de dar protección en días hábiles y en horario laboral. También a la sub estación 71-21, con sede en el Municipio de Chichicastenango, realizar recorrido perimetral al domicilio de la señora López Cordero de 17h00 a 7h00. El Estado de Guatemala, tomando en cuenta la labor realizada por la señora Aída en la Procuraduría de Derechos Humanos en el departamento del Quiché, estableció las comunicaciones necesarias para garantizar la seguridad, integridad y libertad. Fue activado el sistema nacional para la implementación de medidas de seguridad, instalando seguridad perimetral en el domicilio y lugar de trabajo conveniente a las necesidades de la beneficiaria.

1042. La carta del Ministerio de Relaciones Exteriores comunicó que se había solicitado información al Ministerio de Gobernación y a la Fiscalía General del Ministerio Público sobre las investigaciones realizadas en torno al caso. La Fiscalía General del Ministerio

Público indicó que la señora Aída del Rosario López Cordero presentó denuncia el día 25 de febrero de 2008, relacionada a las amenazas que había recibido por vía telefónica de una persona desconocida. El expediente identificado como MP226/2008/564 está siendo conocido por la Fiscalía de Derechos Humanos, Unidad Fiscal de delitos cometidos contra activistas de derechos humanos. El Ministerio Público indicó en su informe que dentro de la investigación se han realizado una serie de diligencias, entre ellas: se recogió la declaración testimonial; se solicitó control jurisdiccional, y; se solicitó autorización para determinar el número de teléfono del cual fue realizada la amenaza. El Ministerio de Gobernación por su parte, indicó en su informe que de acuerdo a sus investigaciones, se identificaron los números de teléfono 22552199 de la empresa TELGUA, ubicado en el Centro de Orientación Femenina (prisión de mujeres) ubicado en la zona 18 capitalina, así como el teléfono 58 57 27 49, el cual pertenece a un teléfono celular de la Empresa Comcel. Éste último fue detectado en movimiento en la Colonia El Carmen, zona 12, y se estableció que ambos teléfonos son utilizados para la comunicación interna de Orientación Femenina. El Ministerio de Gobernación también indicó que elementos de la sub-Estación 71-21 de Chichicastenango, de la Policía Nacional Civil, se prestaron ante la señora López Cordero indicándole que debido a la denuncia realizada ante el Ministerio Público de Santa Cruz de Quiché, se le brindaría seguridad 24 horas a partir del 14 de abril de 2008, por lo que ella agradeció la reputación de la PNC por brindarle la seguridad que necesita. A partir de dicha fecha se realizaron las coordinaciones correspondientes a fin de proporcionar seguridad perimetral de su casa de habitación, además se le proporcionó un número telefónico para cualquier información o coordinación de seguridad.

### **Llamamiento urgente**

1043. El 20 de marzo de 2008, la Representante Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, envió a la atención urgente del Gobierno información recibida en relación con el asesinato del Sr. **Miguel Ángel Ramírez Enríquez**, uno de los fundadores de SITRABANSUR (Sindicato de Trabajadores Bananeros del Sur), que habría sido asesinado en el pueblo de El Semillero, departamento de Escuintla, a unos 150 kilómetros de la Ciudad de Guatemala. Quiero también expresar mi preocupación en relación con las amenazas en contra de otros sindicalistas de SITRABANSUR. El sindicato SITRABANSUR fue creado por trabajadores del sector bananero en julio de 2007 para negociar un convenio colectivo.

1044. Según los informes, los propietarios de la plantación no pagarían el salario mínimo, ni tampoco la seguridad social y otras contribuciones. El 20 de noviembre de 2007, todos los miembros fundadores del sindicato, incluidos sus dirigentes y sus familias, habrían sido despedidos de sus empleos y desalojados de sus casas, al parecer a consecuencia de sus actividades sindicales. Los Sres. Germán Aguilar Brego, Alberto López Pérez y Víctor Manuel Gómez habrían denunciado que, el día anterior, habían recibido una amenaza de muerte de un miembro del cuerpo directivo de la plantación bananera. Los Sres. Aguilar Brego, López Pérez y Gómez fueron objetos de un

llamamiento urgente enviado por la Representante Especial del Secretario General para los defensores de los derechos humanos el 30 de noviembre de 2007.

1045. El 2 de marzo de 2008, dos hombres armados y con el rostro cubierto por pasamontañas habrían estado acechando cerca de la casa del Sr. Ramírez Enríquez. Cuando éste regresó a su casa, habrían abierto fuego contra él. El Sr. Ramírez Enríquez habría entrado corriendo en la casa y habría tratado de escapar por la puerta trasera. Uno de los hombres lo habría seguido, mientras el otro habría rodeado la casa para interceptarlo y lo habría arrojado al suelo. El Sr. Ramírez Enríquez habría tratado de huir, pero le dispararon por la espalda. Luego le habrían disparado varias veces más, mientras yacía herido en el suelo. Habría muerto unas dos horas después en el hospital. Los informes iniciales indican que su cadáver presentaba cuatro heridas de bala y al menos una de arma blanca.

1046. Los familiares del Sr. Ramírez Enríquez habrían declarado que, unos 15 días antes de ser asesinado, habría dicho que los gestores de la plantación le habían ofrecido dinero para que dimitiera de su cargo en SITRABANSUR. También habría dicho que había recibido amenazas de muerte telefónicas.

1047. Otros miembros del Comité Ejecutivo de SITRABANSUR habrían sufrido intimidación. El 29 de febrero, el Sr. Víctor Manuel Gómez Mendoza habría informado que unos hombres no identificados habían preguntado a su vecino por su paradero. El 3 de marzo, el Sr. Alberto López Pérez habría afirmado que unos hombres no identificados habían estado vigilando su casa. Durante la noche del 8 de marzo, unos intrusos habrían entrado en su casa, pero el Sr. López Pérez y su familia habrían logrado escapar.

1048. Se temía que el asesinato del Sr. Ramírez Enríquez y las amenazas contra los sindicalistas de SITRABANSUR estaban relacionados con su labor en defensa de los derechos humanos, en particular los derechos de los trabajadores del sector bananero. Estos hechos, de ser confirmados, se enmarcan en el cuadro de gran inseguridad y riesgo que constatado por la Representante Especial durante su visita a Guatemala en febrero de 2008. En su comunicado de prensa, la Representante Especial señaló que “entre los grupos más afectados se cuentan los defensores que trabajan en los derechos económicos, sociales y culturales” y que “otros sectores de la comunidad de defensores sufren ataques específicos a su ámbito de trabajo, entre otros, los sindicalistas”.

### **Respuesta del Gobierno**

1049. Mediante carta fechada el 1 de julio de 2008 el Ministerio de Relaciones Exteriores respondió al llamamiento urgente por parte del Gobierno de Guatemala. La carta confirmó que el Sr. Miguel Ángel Ramírez Enríquez falleció el 2 de marzo de 2008.

1050. La carta indicó que dentro de la investigación de la Fiscalía General del Ministerio Público que se había realizado una serie de diligencias, entre ellas: se ofició informes de registros públicos. Según la carta, el Sr. Ramírez Enríquez fue miembro del SITRABANSUR pero nunca ocupó ningún cargo en el mismo y que retiró del sindicato



en el mes de noviembre de 2007, al ser despedido de la Finca María Olga. Asimismo, informó que el Sr. Ramírez Enríquez no sabía leer ni escribir y en una denuncia (MP062/2007/1782) que se hizo ante el ministerio Público, expresó que había sido engañado por los miembros del sindicato. Asimismo el Sr. Ramírez Enríquez, de acuerdo declaraciones de entrevistados en el curso de la investigación, había expresado temor hacia los miembros del SITRABANSUR.

1051. Informó que la Fiscalía General solicitó a la Policía Nacional Civil (PNC) designar personal para la seguridad de los miembros del Comité Ejecutivo del SITRABANSUR. Asimismo, el Ministerio de Gobernación informó que se giraron órdenes para que el Distrito Sur de la PNC adoptara las medidas de seguridad necesarias.

### **Llamamiento urgente**

1052. El 28 de marzo de 2008, la Representante Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, envió a la atención urgente del Gobierno la información recibida en relación con los ataques contra la casa del Sr. Guillermo Chen, director de la organización no gubernamental Fundación Nueva Esperanza, Río Negro. La Fundación Nueva Esperanza hace campaña para pedir justicia por los delitos cometidos durante el conflicto armado interno de Guatemala (1960-1996). En particular, en febrero de 2008, Guillermo Chen habría aparecido al menos 15 veces en una emisora de radio local pidiendo que los pueblos indígenas asistieran a las vistas judiciales públicas sobre la masacre de Río Negro, perpetrada el 13 de marzo de 1982, en la que civiles armados habrían matado a 177 mujeres y niñas indígenas.

1053. Aparte de trabajar sobre las violaciones de derechos humanos cometidas durante el conflicto armado interno, la Fundación Nueva Esperanza respalda a los descendientes de las víctimas de la masacre, proporcionándoles programas de educación que incluyen las lenguas y la cultura indígenas.

1054. Según la información recibida, el 5 de marzo de 2008, hacia las nueve de la noche, dos personas habrían pasado en bicicleta junto a la casa del Sr. Chen en la ciudad de Rabinal, departamento de Baja Verapaz, en el centro de Guatemala, y habrían realizado seis disparos contra su puerta. Guillermo Chen y su familia estarían dentro de la casa, pero nadie habría resultado herido.

1055. Se temía que los disparos contra la casa del Sr. Chen podían estar relacionados con su labor en defensa de los derechos humanos, en particular en el campo de la justicia y del derecho a la verdad para los crímenes cometidos durante el conflicto armado. Se temía por su seguridad, la de los miembros de su familia y de los otros miembros de la Fundación Nueva Esperanza.

1056. Estos hechos, de ser confirmados, se enmarcan en el cuadro de gran inseguridad y riesgo constatado por la Representante Especial durante su visita a Guatemala en febrero de 2008. En su comunicado de prensa, la Representante señaló que “Son especialmente

objeto de amenazas las organizaciones que trabajan en cuestiones de justicia y de derecho a la verdad.”

### **Respuesta del Gobierno**

1057. Mediante carta fechada el 2 de julio de 2008, el Gobierno respondió al llamamiento urgente a través del Ministerio de Relaciones Exteriores. La carta informó que la Fiscalía General del Ministerio Público indicó en su informe que la Fiscalía a cargo tuvo conocimiento de los hechos el día 23 de marzo de 2008, a través de un correo electrónico, por lo que de oficio se inició la investigación correspondiente. Por su parte el Ministerio de Gobernación indicó en su informe que el 5 de marzo de 2008 a eso de las 21h05 el señor Guillermo Chen Morales fue víctima de un atentado perpetrado por personas desconocidas, quienes efectuaron disparos a su vivienda.

1058. El Ministerio indicó que el Sr. Guillermo Chen Morales presentó una denuncia la cual fue trasladada a la Sub-estación 52-21 de la Policía Nacional Civil. El Ministerio Público indica dentro de su investigación se han realizado una serie de diligencias, entre ellas: se tomó la declaración testimonial del Sr. Chen; se remitió de oficio a la Dirección de Investigaciones (DINC) de la Policía Nacional Civil, para que realizaran las investigaciones en relación al hecho denunciado. Por su parte, el Ministerio de Gobernación informó que al no haber sido posible identificar a los responsables que atentaron contra el Sr. Chen, no había sido posible dar seguimiento al caso. El Ministerio Público indicó que solicitó al Ministerio de Gobernación brindar medidas de seguridad al Sr. Chen. Asimismo, la Policía Nacional Civil se presentó en el Domicilio del Sr. Chen a quien se le informó que por los hechos ocurridos en su inmueble, se le brindaría seguridad perimetral a su domicilio por medio de patrullajes motorizados.

### **Llamamiento urgente**

1059. El 10 de abril de 2008, la Representante Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el Monseñor **Álvaro Ramazzini**, Obispo de la Diócesis de San Marcos. Monseñor Ramazzini es Miembro de la Conferencia Episcopal de Guatemala y de la Mesa de Alto Nivel sobre la Minería. El Obispo ha acompañado a las comunidades de la zona en su resistencia en torno a la minera Montana y su impacto; y junto con la Pastoral, ha presentado una crítica de la Ley de Minería.

1060. De acuerdo con las informaciones recibidas, el 31 de marzo de 2008, una persona cercana al Monseñor caminaba por la zona cuatro de San Marcos, cuando se le habría acercado una camioneta. Se habría bajado del vehículo un hombre que habría agarrado a la persona mencionada del brazo izquierdo y mostrándole una pistola le dijo: “Dígale a ese cura, que deje de estarse metiendo en lo que no le importa porque sus días están contados”. Se le habría preguntado al hombre que si refería a otro cura y el hombre habría aclarado que hablaba de Monseñor Ramazzini. Posteriormente el hombre habría empujado a la persona mencionada con la pistola y se habría subido al vehículo y partido.

1061. Se alegó que las amenazas en contra de Monseñor Álvaro Ramazzini podrían estar directamente vinculadas con su trabajo en defensa de los derechos humanos, en particular sus actividades respecto a la Ley de Minería. Asimismo, se expresó profunda preocupación por la integridad física y psicológica de Monseñor Ramazzini.

### **Respuesta del Gobierno**

1062. Mediante carta fechada el 2 de julio de 2008, el Gobierno respondió al llamamiento urgente a través del Ministerio de Relaciones Exteriores. La carta informó que la Fiscalía General del Ministerio Público indicó en su informe que la denuncia relacionada con las supuestas amenazas en contra del Obispo relató los hechos ocurridos el 31 de marzo de 2008. El Ministerio de Gobernación informó que de acuerdo a las investigaciones efectuadas, la denuncia realizada por una religiosa indica que individuos desconocidos que se conducían en un vehículo tipo agrícola le interceptaron el paso y le indicaron dar un mensaje de intimidación y amenazas de muerte en contra del Obispo Ramazzini. El expediente del caso se identifica con el número MP166-2008-1099 iniciado por la Fiscalía Distrital del Ministerio Público de San Marcos, el cual fue trasladado a la Fiscalía de la Unidad de Delitos cometidos contra Activistas de Derechos Humanos en la ciudad de Guatemala.

1063. La carta comunicó que el Ministerio Público había indicado que dentro de la investigación se ha realizado una serie de diligencias, entre ellas: oficiar con carácter de urgente a la División Regional de Investigaciones Criminales (DINC) de la Policía Nacional Civil, así como a la Comisaría Departamental; se entrevistó al Obispo Ramazzini, quien expresó que ratificaba la denuncia y solicitó que la misma existiera como un antecedente ante las autoridades y que de las amenazas no podía sindicar a alguna persona en particular, que no había recibido anónimos ni tampoco llamadas telefónicas. La Dirección General Adjunta de la Policía Nacional Civil informó, a través de Oficio número 1649 Ref. DGA-HRLG-Sr.io, que por la solicitud de protección personal que realizó el Ministerio Público Distrital en el mes de marzo, un Oficial y un Sub-Inspector se constituyeron al domicilio del afectado el 14 de abril, quien se negó a dar información de si había sido víctima de amenazas de muerte, manifestando que su denuncia la presentó al Ministerio Público y a la Procuraduría de los Derechos Humanos, y no así a la Policía Nacional Civil, solicitando únicamente que la unidad policial circule perimetralmente en su residencia y en la Catedral cada media hora, haciendo uso de las luces lumínicas y sonoras, lo cual se ha cumplido. Asimismo, la Subdirección General de Unidades Especialistas de la Policía Nacional Civil, informó que en la División de Protección a Personalidades, no existe solicitud de seguridad personalizada de ninguna entidad, a favor del Obispo Álvaro Ramazzini.

### **Carta de alegaciones**

1064. El 20 de mayo de 2008, la Relatora Especial envió, una carta de alegaciones señalando a la atención urgente del Gobierno la información recibida en relación con los asesinatos de los Sres. Carlos Enrique Cruz Hernandez, trabajador de la Compañía

Bandegua y afiliado del Sindicato de Trabajadores Bananeros de Izabal (SITRABI) y de Sergio Miguel García, miembro del Sindicato Nacional de Trabajadores de la Salud de Guatemala, quien se desempeñaba como Secretario de organización y actas de la sección de "Enfermedades Transmitidas por Vectores" del municipio de Puerto Barrios, en el departamento de Izabal.

1065. De acuerdo con las informaciones recibidas, el 29 de abril de 2008, habría sido asesinado el Sr. Carlos Enrique Cruz Hernández en su lugar de trabajo, la finca "Chikasaw el peligro", la cual es propiedad de la Compañía Bandegua, transnacional de Del Monte. El 13 de mayo de 2008, hacia las 08h00., el Sr. Sergio Miguel García habría sido asesinado por desconocidos, quienes le dispararon con armas de fuego, cuando se dirigía en moto a su trabajo en Puerto Barrios.

1066. También se recibió información sobre supuestos actos de hostigamiento en contra del Sr. Danilo Mendez, también miembro del SITRABI. El Sr. Mendez habría sido objeto de actos de intimidación por hombres armados con gorros pasamontañas que rondarían su vivienda, que se encontraría en un sector donde vive un hijo del Secretario General del SITRABI.

1067. Estos hechos, de ser confirmados, se enmarcan en el cuadro de gran inseguridad y riesgo en el cual se encuentran los líderes y sindicalistas en el país, y en particular en la región de Izabal. Los miembros del sindicato SITRABI están en una situación particularmente vulnerable ya que las alegaciones mencionadas arriba se suman a otras supuestas violaciones en contra de los sindicalistas del SITRABI, como el asesinato del Sr. Marco Tulio Ramírez Portela, señalado en una carta enviada a la atención de su Gobierno por la entonces Representante Especial del Secretario-General sobre la situación de los defensores de derechos humanos el 30 de noviembre de 2007 (A/HRC/7/28/Add.1, párrafos 972-975), a la cual no se ha recibido respuesta todavía.

1068. Además de condenar los asesinatos de los sindicalistas, la Relatora expresó su más profunda preocupación por la seguridad y la integridad de los demás miembros del SITRABI.

### **Llamamiento urgente**

1069. El 27 de mayo de 2008, la Relatora Especial, junto con el Relator Especial sobre la independencia de magistrados y abogados envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con las amenazas en contra del Sr. **Fredy Peccerelli**, director de la Fundación de Antropología Forense de Guatemala (FAFG), la Sra. **Bianka Monterroso**, hermana de Fredy Peccerelli, el Sr. **Omar Bertoni Girón**, coordinador de laboratorio de la FAFG y esposo de Bianka Peccerelli Monterroso, el Sr. **Gianni Peccerelli**, hermano de Fredy Peccerelli, el Sr. **José Suasnavar**, director adjunto de la FAFG, el Sr. **Leonel Paiz**, jefe del departamento de arqueología de la FAFG, y del Sr. **Eduardo Cojulún**, Juez Undécimo de Instancia Penal. El Sr. Peccerelli y la FAFG ya fueron objeto de varias comunicaciones de la predecesora de la Relatora Especial sobre la situación de los defensores de derechos humanos, Sra.

Hina Jilani, que envió cartas el 27 de julio del 2002 (E/CN.4/2003/104. Add.1 párrafo 224), el 19 de agosto del 2003 (E/CN.4/2004/94/Add.3, párrafo 194), el 16 de septiembre del 2005 (E/CN.4/2006/95/Add.1, párrafo 213) y el 21 de marzo del 2006 (A/HRC/4/37/Add.1, párrafo 289). La FAFG se dedica a investigaciones forenses y a la exhumación de cadáveres de personas enterradas en fosas secretas durante el conflicto interno de Guatemala.

1070. Según las informaciones recibidas, el 19 de mayo se habría enviado al Sr. Fredy Peccerelli un mensaje de correo electrónico que contenía amenazas de muerte en contra de él, su hermana y de los cuatro miembros de la FAFG mencionados arriba.

1071. Se teme que esta amenaza esté relacionada con las declaraciones recientemente prestadas ante el Juez Eduardo Cojulún por unos testigos del genocidio guatemalteco de la década de 1980. El 19 de mayo de 2008, en el periódico Prensa Libre se habría publicado una foto de una exhumación realizada por la FAFG en Plan de Sánchez junto con un artículo que informaba sobre las investigaciones dirigidas por el juez Eduardo Cojulún. La relación entre las investigaciones llevadas a cabo por el juez Cojulún y el trabajo de exhumación de la FAFG se hizo pública, a través de este artículo.

1072. El tribunal actuaría en nombre de los tribunales españoles como parte de una causa por genocidio que se sigue actualmente en España contra ex altos mandos de la junta militar guatemalteca de principios de los años ochenta. Se temía que esta última amenaza habría sido provocada por la notoriedad pública de las vistas judiciales. El 20 de mayo, el juez Eduardo Cojulún, que preside las vistas judiciales en Guatemala, habría declarado públicamente que el fin de semana del 17 y 18 de mayo había recibido amenazas telefónicas por su papel en esas vistas.

1073. Se temía que las amenazas en contra de los integrantes de la FAFG y del juez Cojulún estén relacionadas con su trabajo de investigación de los crimines del pasado y, más en general, en cuestiones de justicia y derecho a la verdad. También se expresó preocupación que los integrantes de la FAFG sigan estando amenazados desde hace varios años sin que se hayan procesado o condenado a los responsables de las amenazas. Además se alegó que la protección proporcionada sería insuficiente

### **Carta de alegaciones**

1074. El 30 de mayo de 2008, la Relatora Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el asesinato del Sr. **Jorge de Jesús Mérida Pérez**, periodista corresponsal departamental del diario Prensa Libre. El Sr. Jorge de Jesús Mérida Pérez había realizado investigaciones sobre el funcionamiento del municipio de Coatepeque, Quetzaltenango.

1075. De acuerdo con las informaciones recibidas, el 10 de mayo de 2008, por la tarde, el Sr. Jorge Mérida Pérez habría sido asesinado en su domicilio en el barrio Rosario de

Coatepeque, por un hombre desconocido quien, luego de ingresar a su casa, le habría propinado cuatro disparos en el rostro. El Sr. Mérida había indicado a sus familiares y a uno de sus colegas que un sicario le había amenazado en estos términos: “que le bajara de tono a sus notas y que dejara de escarbar cosas, que si sabía cuánto le iban a pagar por matarlo”.

1076. Se había informado que unos días antes su homicidio, el Sr. Mérida Pérez investigaba junto con el Sr. Francisco Matul, periodista en Cable DX, sobre casos de supuesta corrupción en la municipalidad de Coatepeque y a la presunta vinculación del alcalde con el narcotráfico. Se había previsto publicar los resultados de esas investigaciones en la Prensa Libre y en Cable.

1077. Se temía que el asesinato del Sr. Mérida Pérez pudiera estar relacionado con su labor en contra de la corrupción en la administración pública. Asimismo, se expresó preocupación por la integridad física y psicológica del Sr. Francisco Matul y los demás periodistas que investigan casos de corrupción.

### **Llamamiento urgente**

1078. El 2 de julio de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión enviaron una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con la organización **Hijos e Hijas por la identidad y la justicia contra el perdón y el olvido (HIJOS)**, organización que aboga por los derechos de las víctimas del conflicto armado guatemalteco y lucha contra la impunidad de los autores de las violaciones de derechos humanos cometidos durante el conflicto. HIJOS participa también, junto con 15 otras organizaciones, en una campaña con el objeto de desmilitarizar la sociedad. La organización y sus integrantes fueron objeto de dos llamamientos urgentes emitidos por la entonces Representante Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión el 23 de febrero y el 23 de mayo de 2005. Hasta la fecha no se ha recibido respuesta a estas comunicaciones.

1079. De acuerdo con las informaciones recibidas, el 21 de junio de 2008 por la tarde, dos personas se habrían bajado de un vehículo en la esquina de la 11 calle y la 8 avenida en Ciudad de Guatemala y se habrían acercado a una persona afiliada a la organización. Este individuo habría sido objeto de agresiones mientras las dos personas le habrían interrogado sobre la coordinación de la organización y acerca de sus actividades relacionadas con la lucha contra la impunidad. Los dos agresores habrían procedido a amenazar de muerte a los miembros de HIJOS si no dejaban de abogar por la justicia por crímenes cometidos durante el conflicto armado guatemalteco.

1080. El 15 de junio de 2008, se habría publicado un artículo señalando a HIJOS como responsable de la suspensión del desfile militar, previsto para el 8 de junio de 2008 y

suspendido debido a limitaciones presupuestarias. Asimismo, el artículo habría denunciado la organización como una institución de odio al ejército.

1081. Se alegó que las amenazas en contra de los integrantes de HIJOS podrían estar directamente relacionadas con sus actividades en defensa de los derechos humanos, en particular con los derechos de las víctimas del conflicto armado en Guatemala. Se expresó preocupación por la integridad física y psicológica de la persona mencionada, así como la de los demás integrantes de HIJOS.

### **Respuesta del Gobierno**

1082. Mediante carta fechada el 9 de septiembre de 2008, el Gobierno respondió al llamamiento urgente a través de la Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos (COPREDEH). La carta confirmó que los hechos a los que se habían referido las alegaciones presentadas coincidían con el conocimiento del Estado de Guatemala y la denuncia presentada al Ministerio Público. También confirmó que, el 23 de junio de 2008, se presentó dicha denuncia a la Unidad Fiscal de Delitos Cometidos contra activistas de derechos humanos del Ministerio Público. Se procedió a tomar la denuncia, y se remitió a la víctima con el Médico Forense del Instituto Nacional de Ciencias Forenses (INACIF). Se citó a la víctima para que el 24 de junio de 2008 se presentara a la Unidad de Escena del Crimen a efecto de que proporcionara características del sujeto y se realizara una forot robot, pero dicha persona no compareció, sino hasta el día 8 de julio de 2008. Ese día se trasladó a la víctima hacia el Gabinete Criminalístico de la Policía Nacional Civil para ponerle a la vista álbum delincuenciales, obteniendo resultados negativos. Se solicitó control jurisdiccional, así como autorización telefónica para obtener información del teléfono que fue robado, pendiente de recibir notificación. El Ministerio Público solicitó apoyo a la Unidad de Derechos Humanos de la Policía Nacional Civil, instruyendo una serie de lineamientos. Se solicitó a EMETRA información acerca de cámaras de video para tener algún indicio sobre el vehículo que no fue identificado. Según el Ministerio Público, a la fecha el expediente se encuentra en la fase de investigación.

1083. Respecto a las medidas de protección adoptadas para los integrantes de la organización HIJOS, la carta comunicó que la Comisión Interamericana de Derechos Humanos, en 2003, otorgó Medidas Cautelares como MC-464-03 a favor de los miembros de HIJOS. Por lo tanto actualmente los miembros de la organización cuentan con seguridad perimetral en la sede ubicada en la 2 calle "A" 7-13 2, ciudad Guatemala, nombrando para el servicio a dos agentes de la Policía Nacional Civil a bordo de las motocicletas DPM-024 y DPM-025, los cuales cubren recorridos y seguridad perimetral con el fin de resguardar la seguridad de los beneficiarios.

### **Llamamiento urgente**

1084. El 4 de julio de 2008 la Relatora Especial sobre la situación de los defensores de los derechos humanos, el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y el Relator Especial sobre la cuestión de tortura

enviaron un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el Juez **José Eduardo Cojulún** quien, desde el mes de mayo de 2008, ha trabajado con una comisión rogatoria organizada por la Audiencia Nacional Española. El tribunal por él presidido actuaría en nombre de los tribunales españoles como parte de una causa por genocidio que se sigue actualmente en España contra ex altos mandos de la junta militar guatemalteca de principios de los años ochenta. La comisión rogatoria estaría investigando denuncias de presuntos crímenes – muchos de ellos en contra de la etnia maya – de genocidio, torturas, asesinatos y detenciones ilegales durante el conflicto armado interno de Guatemala. La situación del Juez Cojulún y las amenazas en su contra ya fueron objeto de un llamamiento urgente enviado el 27 de mayo de 2008. Hasta la fecha, todavía no se ha recibido ninguna respuesta por parte del Gobierno.

1085. De acuerdo con las informaciones recibidas, el 12 de junio de 2008 le habrían retirado los dos escoltas al Juez José Eduardo Cojulún sin reemplazarlos. La explicación oficial que se habría dado sería que los escoltas necesitaban vacaciones. Además, la Policía Civil Nacional (PCN) habría dicho al Juez José Eduardo Cojulún que no había ningún guardia, ni ningún vehículo civil disponible cuando los solicitó por teléfono el mismo día.

1086. Recordamos que el 20 de mayo de 2008, el Juez Cojulún habría anunciado públicamente que había recibido amenazas por teléfono. Los que le amenazaron le habrían instado para que dejara su trabajo con la Audiencia Nacional Española. El Juez José Eduardo Cojulún habría recibido estas amenazas poco después de haber presentado una denuncia en la que pidió investigaciones respecto de personas e instituciones señaladas en los testimonios de víctimas del conflicto armado interno de Guatemala.

1087. Se manifestó preocupación respecto de la decisión de retirar los escoltas del Juez José Eduardo Cojulún a pesar de las amenazas en su contra. Asimismo, se expresó preocupación que dichas amenazas en contra del Juez Cojulún podrían estar directamente relacionadas con sus actividades en defensa de los derechos humanos, en particular con las investigaciones de genocidio, torturas, asesinatos y detenciones ilegales durante el conflicto armado en Guatemala. En vista de lo aquí resumido, se expresó preocupación por la integridad física y psicológica del Juez José Eduardo Cojulún.

### **Respuesta del Gobierno**

1088. Mediante carta fechada 23 de julio de 2008, el Gobierno contestó el llamamiento urgente. A través de esta carta, la Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos (COPREDEH) afirmó que, según información divulgada por los medios de comunicación social, específicamente el diario matutino Prensa Libre, el Juez Eduardo Cojulún Sánchez había denunciado las amenazas de muerte que había recibido. La COPREDEH también comunicó que se estaba coordinando con las autoridades correspondientes para que se restituya la seguridad del Juez José Eduardo Cojulún Sánchez y se garanticen sus derechos humanos mediante los mecanismos nacionales de protección.



1089. Mediante otra carta fechada 28 de agosto de 2008, la COPREDEH confirmó que los hechos de los que tenía conocimiento coincidían con los del llamamiento urgente. Según la Fiscalía de Derechos Humanos del Ministerio Público, dicha Fiscalía se apersonó ante José Eduardo Cojulún Sánchcez, quien manifestó que no iba a dar información de dicha situación a ninguno y que no desea presentar denuncia. Por tal circunstancia no hay denuncia presentada ante los Tribunales correspondientes.

1090. Respecto al retiro de los escoltas del Juez Cojulún, la carta afirmó que el Licenciado José Eduardo Cojulún Sánchez goza de seguridad personalizada desde enero de 2007 hasta la fecha, por orden del entonces Director General de la PNC. Por lo tanto el Estado de Guatemala informa que el Estado no ha retirado los escoltas del Juez Cojulún y que aún sigue contando con seguridad proporcionada por el Estado.

### **Llamamiento urgente**

1091. El 31 de julio de 2008 la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión enviaron un llamamiento urgente, señalando a la atención urgente del Gobierno información recibida en relación con el Sr. **José Suasnavar**, subdirector de la Fundación de Antropología Forense de Guatemala (FAFG), una organización que se dedica a investigaciones forenses y a la exhumación de cadáveres de personas enterradas en fosas secretas durante el conflicto interno de Guatemala. La FAFG fue objeto de varias comunicaciones de la anterior Representante Especial sobre la situación de los defensores de los derechos humanos. También la Relatora Especial sobre la situación de los defensores de derechos humanos y el Relator Especial sobre la independencia de magistrados y abogados enviaron un llamamiento urgente a su Gobierno el 27 de mayo de 2008 en relación con amenazas de muerte contra el Sr. José Suasnavar y otros miembros de la FAFG. Hasta la fecha no se ha recibido ninguna respuesta de su Gobierno.

1092. Según las informaciones recibidas, el 27 de julio de 2008, aproximadamente a las 11.17 p.m., el 28 de julio, aproximadamente a las 1.17 p.m., y el 29 de julio, aproximadamente a las 8.32 a.m., el Sr. José Suasnavar recibió mensajes amenazadores a su teléfono móvil del mismo número. El último de estos mensajes le dijo “Te vamos hacer caca estas vigilado” [sic.].

1093. Se expresó preocupación que las amenazas en contra del Sr. José Suasnavar podrían estar relacionadas con su trabajo con la FAFG de investigación de los crimines del pasado y, más en general, en cuestiones de justicia y derecho a la verdad. También se expresó preocupación que los integrantes de la FAFG siguieran estando amenazados desde hace varios años sin que se hayan procesado o condenado a los responsables de las amenazas. Además se alegó que la protección proporcionada es insuficiente.

### **Respuesta del Gobierno**

1094. Mediante cartas fechadas 19 de septiembre de 2008, el Gobierno respondió al llamamiento urgente. La carta confirmó que el Gobierno tiene los mismos hechos sobre las amenazas recibidas por el Sr. José Suasnavar entre el 27 y 29 de julio de 2008, enviados a su teléfono celular. Asimismo, informó que una denuncia fue presentada por el Sr. Suasnavar.

1095. La carta comunicó que el 13 de agosto de 2008, se sostuvo en la sede la Comisión Presidencial de Derechos Humanos una reunión entre el Sr. Suasnavar y los Fiscales para Activistas de Derechos Humanos del Ministerio Público en la cual la víctima manifestó su preocupación por el hermetismo del Ministerio Público sobre las investigaciones de las amenazas en contra la Fundación de Antropología Forense de Guatemala (FAFG) – 24 en total – desde el 2002. Se informó que el Ministerio se han solicitado los desplegados telefónicos a la Empresa telefónica, TELGUA, para determinar de dónde se han generado las llamadas, pero es imposible establecer la identidad de quién adquirieron los celulares pre pago.

1096. La carta informó también que la Corte Interamericana de Derechos Humanos otorgó Medidas Provisionales a favor de los miembros de la Fundación de Antropología Forense de Guatemala en 2006, mismas que son implementadas a través del Ministerio de Gobernación quien informó que la Policía Nacional Civil ha asignado 24 agentes para brindar la seguridad de los miembros de la FAFG, por lo tanto el Sr. José Suasnavar es beneficiario de dichas medidas de protección.

### **Llamamiento urgente**

1097. El 19 de agosto de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos, el Relator Especial sobre la independencia de magistrados y abogados, y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas enviaron un llamamiento urgente, señalando a la atención del Gobierno la información recibida en relación con el Sr. **Amilcar Pop** y la Asociación de Abogados y Notarios Mayas de Guatemala (AANMG). El Sr. Amilcar Pop es abogado y presidente de la AANMG, organización que proporciona asistencia legal a comunidades indígenas de Guatemala, en particular en asuntos relacionados con los recursos naturales de las comunidades. Desde el año 2006, el Sr. Amilcar Pop ha apoyado a 60 líderes comunitarios de San Juan Sacatepéquez en la defensa de sus recursos naturales y en contra de la empresa Cementos Progresos SA, la cual supuestamente tiene planes para construir una planta de cemento en su localidad.

1098. Según las informaciones recibidas, el 2 de agosto de 2008, poco después de medianoche, el Sr. Amilcar Pop fue perseguido y amenazado con un arma de fuego, por los pasajeros de una pick-up blanca doble cabina con vidrios polarizados y sin placas, quienes llevaban máscaras que hacían imposible su identificación. Los individuos lo habrían amenazado de muerte. El Sr. Amilcar Pop, quien logró escapar, habría resultado lesionado en la lengua, motivo por el cual se dirigió a un hospital. Una vez en el hospital, descubrió que la pick-up se encontraba estacionada detrás de su coche. Sin embargo, cuando salió, aproximadamente a las 6 a.m., ya no estaba allí.

1099. Según se informa, a lo largo de los años 2007 y 2008, los integrantes de la AANMG habrían recibido varias amenazas de muerte, tanto por teléfono, como por correo, para que dejaran de proporcionar asistencia legal a las comunidades de San Juan Sacatepéquez.

1100. Se informa también que la AANMG ha sido el objeto de varias denuncias ante el Ministerio Público por parte del Consejo Municipal por intimidación, amenazas y coacción. Se alega que dichas denuncias no están sustentadas en ninguna evidencia. Asimismo, se informa que la AANMG habría sido falsamente acusada de ser responsable del asesinato del Sr. Francisco Tepeu Piri, un habitante del Municipio de San Juan Sacatepéquez, quien murió después de una protesta contra Cementos Progresos SA, la cual tuvo lugar el 21 de junio de 2008.

1101. Se expresó preocupación por el hecho de que las amenazas y acusaciones en contra del Sr. Amilcar Pop y de otros miembros de la AANMG, así como la persecución de este último, podrían estar directamente relacionadas con sus actividades legítimas de defensa de los derechos de las comunidades indígenas de San Juan Sacatepéquez. También se expresó preocupación por la integridad física y psicológica del Sr. Amilcar Pop y de los demás miembros de la AANMG. Estos hechos, de ser confirmados, se enmarcarían en un contexto de gran vulnerabilidad de los defensores de los derechos humanos en Guatemala.

### **Llamamiento urgente**

1102. El 20 de agosto de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos, el Relator Especial sobre la promoción y la protección del derecho a la libertad de opinión y de expresión, y el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con los Sres. **Eliazar Hernández, Mario Gámez y Juan Navarro**, y 15 otros miembros de la Asociación Cristiana de Jóvenes de Guatemala (ACJ) en la municipalidad de Amatitlán. La ACJ está afiliada a la World Alliance of YMCAs (Alianza Mundial de los YMCA) y se dedica a la formación de jóvenes en liderazgo, voluntariado y participación ciudadana. Los Sres. Eliazar Hernández, Mario Gámez y Juan Navarro eran voluntarios con la ACJ y trabajaban con jóvenes para evitar que ingresasen en pandillas o que participaran en actividades que les colocaran en riesgo.

1103. Según las informaciones recibidas, el 10 de agosto de 2008, aproximadamente a las 21h00, los Sres. Eliazar Hernández, Mario Gámez y Juan Navarro habrían salido de la sede de la ACJ en Amatitlán después de una reunión sobre trabajo preparatorio para abrir un centro recreativo de arte, con dirección a la casa de Eliazar Hernández. Más tarde, esa misma noche, habrían recibido una llamada telefónica, después de la cual habrían salido diciendo que iban a volver pronto. El 11 de agosto de 2008, se habrían encontrado sus cadáveres en la finca El Llano, en Palín, en el Kilómetro 38, Jurisdicción de San Vicente Pacaya, a aproximadamente 10 kilómetros de Amatitlán. Los voluntarios habrían sufrido

cortes de machete, golpeas severas y fueron ejecutados con un disparo en la cara y dos tiros de gracia dados en la parte de atrás de la cabeza.

1104. Se alegó que los asesinatos de los Sres. Eliazar Hernández, Mario Gámez y Juan Navarro podrían estar relacionados con sus actividades para disuadir a los jóvenes de unirse a las pandillas. Estos asesinatos se enmarcaron en un contexto de gran vulnerabilidad de los defensores de los derechos humanos en Guatemala. Por eso se expresó gran preocupación por la integridad física y psicológica de los 15 otros miembros de la ACJ en Amatitlán.

### **Carta de alegaciones**

1105. El 1 de septiembre de 2008, la de Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias enviaron una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **Antonio Morales Lopez**, integrante del Comité de Unidad Campesina (CUC), y defensor de los derechos de los indígenas a recursos naturales en la comunidad de Tixel y a resistir los proyectos mineros a cielo abierto en el Departamento de Huehuetenango.

1106. De acuerdo con las informaciones recibidas, el 7 de agosto de 2008, varios desconocidos habrían atacado al Sr. Antonio Morales López. Le habrían matado a tiros, causándole cuatro heridas en el tórax y en el brazo derecho. Antes de su asesinato, el Sr. Antonio Morales López se habría quejado que grupos armados en la región le habían amenazado.

1107. Se expresó preocupación que el asesinato del Sr. Antonio Morales López podría estar relacionado con sus actividades legítimas para defender los derechos de los pueblos indígenas en Guatemala. Se expresó preocupación que este incidente se enmarcara en un contexto de gran vulnerabilidad de los defensores de los derechos de los pueblos indígenas, en particular los que se oponen a las empresas mineras, en Guatemala.

### **Respuesta del Gobierno**

1108. Mediante carta fechada 20 de octubre, el Gobierno respondió a la carta de alegaciones. La carta informó que el caso se encuentra en fase de investigación por parte del Ministerio Público para esclarecer los hechos denunciados por el Comité de Unidad Campesina (CUC).

1109. La carta comunicó también que la Comisión Presidencial solicitó información al Ministerio Público en relación a las investigaciones realizadas, por lo que informó lo siguiente: el juez Paz del municipio ya se había realizado el acta de rigor, por lo que el Ministerio Público no intervino en el procesamiento de la escena del crimen; que se solicitó información sobre la muerte a la Dirección de Investigación Criminal (DINC); que se tomó declaración a los agentes de la Policía Nacional Civil, quienes manifestaron que no les consta nada del hecho; se citó al padre del señor Morales con el objeto de

tomarle declaración en relación con el asesinato de su hijo, hasta el momento no se ha presentado a declarar; debido al hecho de que los familiares y vecinos se opusieron al traslado del cadáver para la necropsia, no se pudo tomar ninguna muestra para pruebas científicas, entonces, se coordinará para realizar la exhumación del señor Morales con el objeto de realizar las pruebas correspondientes.

### **Carta de alegaciones**

1110. El 23 de septiembre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias enviaron una carta de alegaciones, señalando a la atención del Gobierno la información recibida en relación con el intento de asesinato del Sr. **Yuri Melini**, Director del Centro de Acción Legal-Ambiental y Social de Guatemala (CALAS), del Sr. **Carlos Albacete Rosales** y de la Sra. **Piedad Espinosa Albacete** de la organización medioambiental Trópico Verde. CALAS trabaja para defender los derechos medioambientales y los derechos de defensores de dichos derechos.

1111. De acuerdo con las informaciones recibidas, el 4 de septiembre de 2008, entre las 7h20 y las 7h30, el Sr. Yuri Melini habría descendido de su vehículo para dirigirse a la casa de un familiar. Dos vehículos, uno de los cuales sería un sedán celeste viejo, habrían estado esperándole. Un desconocido en uno de los vehículos llamó al Sr. Yuri Melini. Al atraerle la atención, el desconocido habría disparado cuatro veces al Sr. Yuri Melini. Un tiro le habría dado al abdomen, otro a la rodilla derecha y otro al fémur izquierdo. El mismo día del ataque contra el Sr. Yuri Melini, 50 otros defensores de los derechos medioambientales en Guatemala habrían recibido amenazas.

1112. En un incidente parecido, el 10 de enero de 2007, el Sr. Carlos Albacete Rosales y la Sra. Piedad Espinosa Albacete de la organización medioambiental, Trópico Verde, habrían sido víctimas de disparos, resultando ilesas.

1113. Se afirmó la comprensión de que el Gobierno de Guatemala ha condenado los intentos de asesinato y ha demostrado su apoyo al trabajo de CALAS en un comunicado de prensa, y que la policía y la oficina fiscal han iniciado investigaciones respecto a los incidentes. Sin embargo, estos hechos se han enmarcado en un contexto de gran vulnerabilidad para los defensores de los derechos medioambientales en Guatemala. Se expresó preocupación que el intento de asesinato del Sr. Yuri Melini podría estar relacionado con sus actividades para defender los derechos medioambientales. Se expresó gran preocupación por la integridad física y psicológica del Sr. Yuri Melini y los demás defensores de los derechos medioambientales en Guatemala. Este hecho se enmarcó en un contexto de gran vulnerabilidad para los defensores de los derechos medioambientales en Guatemala.

### **Respuesta del Gobierno**

1114. Mediante carta fechada el 1 de diciembre de 2008, el Gobierno respondió al llamamiento urgente. El Gobierno confirmó que los hechos descritos en el llamamiento urgente eran los mismos de los que tenía conocimiento el Estado de Guatemala. Las diligencias realizadas en torno a la denuncia hecha por el atentado contra el Dr. Melini incluían entrevistas con el hermano del señor Yuri Melini Salguero y el Jefe de enfermería del centro hospitalario donde fue atendido el Dr. Yuri Melini; una inspección ocular en el lugar; una declaración testimonial del Dr. Yuri Giovanni Melini Salguero; un informe de investigación de la Policía Nacional Civil de la División de investigación Criminal del Ministro de Gobernación; una solicitud de informe a Comisaría 14 sobre Agentes que cubrieron la escena del crimen; una solicitud a INACIF sobre análisis de evidencia recogida en la escena del crimen; una solicitud escrita reiterando las solicitudes verbales de audiencia efectuadas al señor Ministro de Ambiente y Recursos Naturales; documentos que individualizaban a posible sindicado; una entrevista e informe al Coordinador del Área Político Legal Ambiental de CALAS; un memorial dirigido al Juez donde se informó de la diligencia de allanamiento; una acta donde se le ponía a la vista del Doctor Melini Salguero a posible sospechoso, con resultado negativo; un informe que contenía foto robot según las características descritas por la víctima; un informe y álbum fotográfico proporcionado por la DICRI-MP de la diligencia de allanamiento, registro, inspección y secuestro; una solicitud al Director del Hospital Roosevelt sobre el informe médico del posible sospechoso; un informe rendido por Agentes de Policía Nacional Civil que estuvieron presentes en la escena del crimen, correspondientes a la Sub estación No. 14-14 de la colonia 6 de octubre zona 7; un informe de Bomberos Voluntarios que atendieron emergencia; un informe fotográfico e indicios embalados en la diligencia judicial de allanamiento, suscrito por el Departamento de Recolección de Evidencias del Ministerio Público; y declaraciones testimoniales de familiares de la víctima, quienes manifestaron que vecinos, posibles testigos del hecho, por temor, no proporcionaron información importante a las autoridades respectivas, e indicaron que si ellos obtenían información importante, comparecería con el agente Fiscal a efecto de darle seguimiento a la misma. El Ministerio Público aún se encontraba realizando diligencias de investigación con el objeto del esclarecimiento del hecho.

1115. En relación con las medidas de protección, el Subcomisaría de PNC brindó seguridad al Doctor Yuri Melini quien se encontraba internado en un centro médico, en turnos de 8 x 8 horas, servicio a cargo del Jefe de la Estación 13.2 La Villa con sede en la zona 10 y por parte del Jefe del Núcleo de Reserva de esa Comisaría, con cuatro Agentes de la Policía Nacional Civil, dos uniformados y dos de civil, en turnos de 8 x 8 horas de trabajo. Adicionalmente, en providencia No. 956-2008 de fecha del 5 de septiembre de 2008, de parte de esa Comisaría 14, se le ordenó al Jefe de la Subestación Seis de Octubre, zona 07 de la ciudad, brindar seguridad perimetral a la residencia del señor Yuri Melini, por medio de constantes patrullajes a bordo de motocicletas, plasmando el servicio en mención en las papeletas de servicio. Finalmente, con respecto a la seguridad para la sede de la entidad CALAS, se informó que estaba a cargo de la División de Patrullaje Motorizado en modalidad de seguridad perimetral por medio de patrullajes constantes.

1116. Respecto a las diligencias de investigación que se han realizado en el caso del Sr. Carlos Albacete Rosales y la señora Piedad Espinosa Albacete el Gobierno envió un documento, fechado el 23 de julio de 2008, de la Comisión Presidencial de Derechos Humanos del Ministro de Gobernación. Así se comunicó que un expediente identificado con el número MP001/2007/3478 era tramitado en la Fiscalía de Derechos Humanos. A la fecha del documento, el caso se encontraba en la fase de investigación. Se habían realizado declaraciones testimoniales, actas Notariales fraccionadas en la Ciudad de Washington, Estados Unidos, y un informe de la Coordinadora de Medios de Transporte sobre datos de un vehículo. Además había citaciones a los agraviados, requerimientos y directrices a los investigadores de la Dirección de Investigaciones Criminalísticas, asignados al caso, diligencias para ubicar el lugar del hecho, localizar testigos y entrevistar a los Agentes de la Policía Nacional Civil que tuvieron conocimiento del mismo. También se mencionó en otro documento enviado en adjunto, fechado el 19 de junio de 2009, de la misma Comisión que la Agente Fiscal a cargo del caso citó al denunciante para que compareciera a la Fiscalía con el objeto de ampliar su denuncia u otorgar más elementos de investigación, pero no se presentó a dicha citación.

### **Llamamiento urgente**

1117. El 29 de octubre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. **Norma Cruz**, Directora de la Fundación Sobrevivientes, una organización no gubernamental que apoya a mujeres que son víctimas de violaciones de los derechos humanos.

1118. De acuerdo con las informaciones recibidas, entre el 13 y el 18 de octubre de 2008, desconocidos estuvieron vigilando la casa de la Sra. Norma Cruz desde sus vehículos. El 19 de octubre de 2008, aproximadamente a las 12 p.m., un miembro de la familia de la Sra. Cruz fue interceptado en la 3ª Calle entre la 6ª y 5ª Avenidas de la Zona 1 de la ciudad de Guatemala, mientras regresaba del parque San Sebastián. Una camioneta RAV 4 x 4 de color negro, modelo 99, se detuvo en su camino. Un hombre ubicado en la parte trasera de la camioneta le habría dicho, con palabras ofensivas, que subiese al vehículo. Cuando el familiar de la Sra. Cruz le dijo que estaba dispuesto a entregarle su celular, el hombre respondió: “Súbete, si no te vas a morir”.

1119. El familiar de la Sra. Cruz habría subido a la camioneta donde habrían estado tres hombres. Los de la parte trasera tenían las caras cubiertas con pasamontañas y estaban vestidos de negro. Uno de éstos, le amenazó con una pistola repitiendo la frase “te vas morir” (sic.) varias veces. El conductor no tenía el rostro cubierto, pero no fue posible observar bien su cara porque la camioneta carecía de espejo retrovisor. El familiar fue liberado a una cuadra de la casa de la Sra. Norma Cruz. Las descripciones del vehículo y de los individuos corresponden a otros hechos similares denunciados por la Fundación Sobrevivientes a las instancias del Estado. Se teme la posible implicación de agentes de seguridad del Estado.

1120. Se informó también que el 22 de octubre, aproximadamente a las 8.33 a.m., el mismo familiar de la Sra. Cruz recibió tres llamadas telefónicas desde un número que ha sido comunicado a la Relatora. Escuchó los mismos insultos y la amenaza de “vas a morir”. Estas llamadas ocurrieron después de que la Sra. Cruz denunciara la agresión del 19 de octubre de 2008. El 22 de octubre, por la tarde, un coche agrícola verde, con vidrios polarizados y matrícula P621BBC, estuvo estacionado frente a las oficinas de la Fundación Sobrevivientes, vigilándolas. Se retiraron cuando se les pidió que se identificaran.

1121. Se expresó preocupación de que estos actos de intimidación y amenazas contra la Fundación Sobrevivientes y familiares de la Sra. Cruz pudieran estar relacionados con su trabajo en defensa de los derechos humanos, posiblemente por sus denuncias concretas de supuestos vínculos de agentes de seguridad del Estado con una red de trata de personas. Se expresó gran preocupación por la integridad física y psicológica de la Sra. Norma Cruz, de su familia, y de los demás miembros de la Fundación Sobrevivientes.

### **Respuesta del Gobierno**

1122. Mediante carta fechada el 1 de diciembre de 2008, el Gobierno contestó al llamamiento urgente. El Gobierno afirmó que los hechos a los que se referían las alegaciones presentadas en el llamamiento urgente eran los mismos de los que el Estado de Guatemala tenía conocimiento. Se realizó la consulta pertinente al Ministerio Público sobre los adelantos de la investigación relacionada con los actos de intimidación que había recibido la señora Cruz y miembros de su familia, el cual había informado las diligencias respectivas, coordinando con otras instituciones como EMETRA para obtener las evidencias a través de las cámaras que tenían colocadas en puntos estratégicos de la ciudad y que podrían arrojar la información que pudiera dar con los responsables de este hecho. También esta Institución solicitó información a la jefatura de la Sección de robo de vehículos de la PNC con el objeto de obtener información del vehículo, según la descripción de la víctima.

1123. Así mismo se instruyó con lineamientos de investigación al equipo de investigadores de la unidad de ataques contra activistas de Derechos Humanos del Ministerio de Gobernación. Aún no se ha individualizado a los presuntos responsables del hecho ocurrido en contra del familiar de la señora Norma Cruz, por lo que se ha aplicado ningún tipo de sanción penal ni disciplinaria en contra de los mismos, y se citó a la señora Cruz, Directora de la Fundación Sobrevivientes, para ampliar la información. Se realizó la coordinación pertinente con el Ministerio de Gobernación para solicitar seguridad perimetral en la residencia de la familia Cruz y su familia. El mismo Ministerio informó que se estaba dando la seguridad perimetral de forma regular, con el objeto de resguardar la integridad física de los beneficiarios. También se informó que la Sede de la Fundación Sobrevivientes contaba con seguridad de puesto fijo desde el 26 de octubre de 2007 bajo medidas cautelares MC-185-07 otorgadas por la Comisión Interamericana de Derechos Humanos.

### **Llamamiento urgente**



1124. El 12 de noviembre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y de Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión enviaron un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el supuesto ataque contra la casa del Sr. **Miguel Arturo Albizures Pedrosa**, vicepresidente de la Asociación para la Comunicación y el Arte (COMUNICARTE) y coordinador de medioambiente del Comité Único de Barrio del Asentamiento Salud Pública. Parte del trabajo del Sr. Miguel Arturo Albizures Pedrosa consiste en producir documentación por medio de videos sobre manifestaciones de las organizaciones sociales, y las exhumaciones de las masacres. El documental producido más recientemente trataba de la biografía del Secretario General de la Asociación de Estudiantes Universitarios de la Universidad de San Carlos que supuestamente fue ejecutado extrajudicialmente por agentes del estado en 1978. El Comité Único de Barrio del Asentamiento Salud Pública trabaja para reducir el consumo de drogas y las actividades delictivas entre los jóvenes locales. Por este trabajo miembros del Comité supuestamente han recibido amenazas previas.

1125. En febrero de 2007, las oficinas del Sr. Miguel Arturo Albizures Pedrosa en la sede del Movimiento Nacional por los Derechos Humanos supuestamente fueron allanados, todo su equipo de producción y una parte de un archivo histórico de imágenes visuales fueron robados, y sogas que simulaba el nudo de la horca fueron colgadas de los picaportes de las puertas.

1126. Según las informaciones recibidas, el 30 de octubre de 2008, aproximadamente a las 20h00, hombres armados habrían llegado a la casa del Sr. Miguel Arturo Albizures Pedrosa en un coche de marca Honda Civic, de color celeste o verde. Habrían entrado en el patio donde habrían disparado 50 proyectiles de diferentes calibres. La única persona que se habría encontrado en la casa en este momento habría sido uno de los hijos del Sr. Miguel Arturo Albizures Pedrosa. El hijo del Sr. Miguel Arturo Albizures Pedrosa habría salido ileso. Estos hechos se enmarcarían en un contexto de agresión contra personas que han organizado conmemoraciones para el aniversario del difunto Secretario General de la Asociación de Estudiantes Universitarios de la Universidad de San Carlos.

1127. El mismo día del atentado, los hechos se habrían denunciado a la Agencia Fiscal 1 de la Unidad de Delitos contra Activistas de Derechos que habría investigado la escena del crimen. También se habrían proporcionado medidas de protección policiales iniciales a favor de la víctima y su familia.

1128. Se expresó preocupación que el atentado contra la casa del Sr. Miguel Arturo Albizures Pedrosa podría estar relacionado con sus actividades legítimas en la defensa de los derechos humanos. Se expresó gran preocupación por la integridad física y psicológica del Sr. Miguel Arturo Albizures Pedrosa y la de su familia.

### **Respuestas del Gobierno a comunicaciones transmitidas en previos años**

1129. Mediante carta fechada el 12 de agosto de 2008, el Gobierno respondió a través de la Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos (COPREDEH) a un llamamiento urgente enviado el 30 de noviembre de 2007 por la entonces Representante Especial. La carta informó que, según información proporcionada por el Ministerio Público, el asesinato del señor Ramírez Portela pudo haberse derivado de una discusión y amenaza sufrida por haber sido fiscal de mesa en las elecciones generales realizadas el año recién pasado, ya que la víctima además de la labor sindical a que se dedicaba había realizado la función de fiscal de un partido político. Sin embargo, la investigación no ha concluido. Las investigaciones continúan realizándose en la Fiscalía Departamental de Izabal, fiscalía municipal de Morales, quienes refieren escasa colaboración de testigos por temor a represalias, no pudiendo obtenerse todas las declaraciones necesarias. Los miembros de SITRABI cuentan actualmente con seguridad perimetral en la sede sindical por parte de la PNC y se está tramitando seguridad de puesto fijo en la misma, buscando las vías de darles seguridad personal.

### **Observaciones**

1130. La Relatora Especial agradece al Gobierno su respuesta y espera más información sobre los resultados de las investigaciones para que estos delitos no queden impunes. La Relatora Especial lamenta al momento de finalización del presente informe no había recibido respuesta a sus comunicaciones del 27 de mayo de 2008, del 30 de mayo de 2008, del 19 de agosto de 2008 del 20 de agosto 2008 y del 12 de noviembre de 2008.

1131. La Relatora Especial expresa preocupación por varios casos de supuestas amenazas dirigidas en contra de defensores cuyo trabajo está enfocado en el tema de la memoria y justicia del periodo de la guerra civil, así como en contra de defensores de los derechos de los sindicalistas y campesinos.

## **Honduras**

### **Carta de alegaciones**

1132. El 29 de abril de 2008, la Representante Especial envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el asesinato del Sr. **Luis Gustavo Galeano Romero**, coordinador del Programa de Auditoria Social del Comisionado Nacional de los Derechos Humanos de Honduras (CONADEH) en la ciudad de Tocoa, Departamento de Colón. El difunto se encargaba de organizar los comisionados municipales y las comisiones ciudadanas de transparencia del departamento, a fin de auditar y fiscalizar el trabajo de las corporaciones municipales.

1133. De acuerdo con las informaciones recibidas, el 3 de abril de 2008, el Sr. Luis Gustavo Galeano Romero, de 24 años de edad, habría sido asesinado por desconocidos, cuando iba en motocicleta de Toco a su casa en Puerto de Trujillo. Su cuerpo sin vida habría sido encontrado a la orilla de la carretera en cercanías de la aldea Quebrada de Arena, a ocho kilómetros de Tocoa, con siete impactos de bala.

1134. Se temía que el asesinato del Sr. Luis Gustavo Galeano Romero pudiera estar directamente relacionado con sus actividades pacíficas en defensa de los derechos humanos en su calidad de miembro del CONADEH. Tras el asesinato del Sr. Galeano Romero, se expresa profunda preocupación por la seguridad física y psicológica de otros miembros del CONADEH, en particular los Sres. **Ramón Custodio, Juan Antonio Frañó López, y Rossel Marel Padilla Mejía, y las Sras Elena Judith Marriaga Aranda y Luz del Carmen Fúnez Osorio.**

### **Carta de alegaciones**

1135. El 19 de mayo de 2008, la Relatora Especial envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el asesinato del Sr. **Iban Guardado**, ingeniero forestal y miembro del Comité para la Defensa de los Derechos Humanos de Honduras (CODEH), en la Comunidad de Victoria, Departamento de Olancho. El difunto formaba también parte del cuerpo docente del Centro Básico Joaquín Núñez Tejada, en el Municipio de Jano, Departamento de Olancho.

1136. De acuerdo con las informaciones recibidas, el 7 de mayo de 2008, el Sr. Iban Guardado fue asesinado por desconocidos mientras se dirigía a una reunión política en la Comunidad de Victoria. Cabía mencionar que este asesinato se sumaba a los del Sr. Luis Gustavo Galeano Romero, cometido el 3 de abril de 2008, y de las Sras. Rosa Altagracia Fuentes y Virginia García de Sánchez, cometidos el 24 del mismo mes.

1137. La Relatora manifestó su preocupación por la seguridad de los defensores de derechos humanos en Honduras. Al igual que las tres personas citadas, se teme que el Sr. Guardado haya sido asesinado a causa de sus actividades legítimas en defensa de los derechos humanos. En vista de estos acontecimientos, se expresó profunda preocupación por la integridad física y psicológica de los defensores de los derechos humanos en Honduras.

### **Respuesta del Gobierno**

1138. Mediante carta fechada el 18 de julio de 2008, el Gobierno respondió al llamamiento urgente. La carta confirmó que el Ingeniero José Iván Guardado fue asesinado el 7 de mayo de 2008 cuando salió de su casa, alrededor de las 6.30 a.m., con dirección a su centro de trabajo en la Aldea Victoria; aproximadamente a dos kilómetros fue interceptado por unas personas que lo obligaron a bajarse de su vehículo y le infirieron varios disparos con arma de fuego que provocó su muerte instantánea.

1139. Respecto a las diligencias investigativas del caso, la carta comunicó que el 8 de mayo de 2008, agentes de la Policía Preventiva y la Dirección General de Investigación Criminal, procedieron a realizar dos allanamientos en las casas de dos hombres, efectuándose la detención de ellos por una orden de la Fiscalía por la supuesta comisión del delito de Portación Ilegal de Armas en virtud de habersele decomisado a dos otros hombres. El 9 de mayo de 2008, la Fiscal adscrita a la Fiscalía Local de Juticalpa,

Olancho, procedió a presentar Requerimiento Fiscal contra los dos hombres detenidos por la supuesta comisión del delito de Portación ilegal de Armas, en perjuicio de la Seguridad Interior del Estado. Asimismo, solicitó al Jefe Departamental de la Policía Preventiva que rindiera un informe sobre la posible participación de dicha solicitud, el Comisario de Policía puso a disposición de la Fiscalía el testigo protegido, quien rindió declaración testifical ante el órgano jurisdiccional, bajo las formalidades de prueba anticipada, donde manifestó haber observado a uno de los dos hombres detenidos en el lugar de los hechos, aproximadamente a las seis de la mañana. No obstante, esta declaración difiere de lo manifestado por los propios familiares del señor Guardado, entre otros testigos, quienes ubican a los imputados fuera de la escena del crimen.

1140. El 10 de mayo se le tomó declaración a la esposa del señor José Iván Guardado, manifestando que su esposo salió de su casa aproximadamente a las seis de la mañana rumbo a la Aldea La Victoria, donde se desempeñaba como maestro en el centro de educación básica Melida Flallos. Al consultarle sobre los enemigos o amenazas que recibió su esposo, manifestó que el señor Guardado no tenía enemigos, pero le informaron que el día de su muerte recibió varias llamadas en su celular donde supuestamente lo amenazaban, sin decirle quien lo amenazó. Por otra parte, su esposo era precandidato a Alcalde del Municipio de Jano y que antes de su lanzamiento mantenía una relación armoniosa con el actual Alcalde de ese Municipio, pero que posteriormente comenzaron los roces porque éste le mandó a cobrar un dinero que el difunto le debía. Ese mismo día se le tomó declaración al cuñado del occiso, manifestando que un día antes de su muerte le comentó que había recibido varias llamadas telefónicas pero no quiso decirle quien lo había llamado.

1141. El 11 de mayo se le tomó declaración a un diputado, quien manifestó que el día 6 de mayo, aproximadamente entre las 8.00 y las 8.30 p.m. recibió llamada telefónica del señor José Iván Guardado, exteriorizándole su preocupación en relación a unas llamadas amenazantes que había recibido. Ese mismo día se le tomó declaración a un hombre, quien manifestó que el día 7 de mayo, minutos después de la muerte del señor Guardado observó en las cercanías del lugar de los hechos al segundo de los dos hombres detenidos por el delito de Portación Ilegal de Armas y se le supone como sospechoso de la muerte del Ingeniero Guardado.

1142. El 12 de mayo se le tomó la declaración del actual Alcalde del Municipio de Jano, quien manifestó haber recibido la noticia de la muerte del señor José Iván Guardado en su casa de habitación, y que efectivamente el señor Guardado tenía una deuda pendiente de cuarenta mil lempiras, la cual se la cobró porque necesitaba el dinero para financiar el lanzamiento de su hermana como candidata a Alcalde. La última vez que vio al señor Guardado fue un día antes de su muerte, en una reunión con los alcaldes que pertenecen a la mancomunidad de municipios del norte de Olancho, y con quien no tuvo ningún roce por diferencias políticas.

1143. El 10 de mayo se practicó inspección en el lugar de los hechos, en compañía del testigo protegido "A" y de técnicos de la Dirección General de Investigación Criminal (DGIC) a efecto de levantar un plano de la escena del crimen y determinar la ubicación

de los supuestos sospechosos. Como diligencia investigativa se presentó solicitud de vaciado telefónico de varios números de celular, ante el correspondiente juzgado, los cuales al ser obtenidos serán remitidos a la Fiscalía Contra el Crimen Organizado para su respectivo análisis. El 26 de mayo, se tomaron declaraciones a los miembros de la Policía Nacional que participaron en los allanamientos y posterior detención de los dos hombres sospechados del delito de Portación Ilegal de Armas. Las instituciones competentes continúan con las investigaciones sobre el asesinato del Ingeniero José Iván Guardado.

### **Carta de alegaciones**

1144. El 23 de mayo de 2008, la Relatora Especial envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con los asesinatos de la Sra. **Rosa Altagracia Fuentes**, Secretaria General de la Confederación de Trabajadores de Honduras (CTH) y segunda Vicepresidenta de la Región Centroamericana de la recién fundada Confederación Sindical de Trabajadores de las Américas (CSA); de **Virginia García de Sánchez**, afiliada de la Unión de Mujeres Campesinas de Honduras (UMCAH), y de su chofer, **Juan Bautista Aceituno Estrada**.

1145. De acuerdo con las informaciones recibidas, el 24 de abril de 2008, varias personas vestidas de negro y portando pasamontañas que les ocultaban el rostro habrían disparado reiteradas veces al vehículo en el que viajaban las dos líderes sindicales antes mencionadas. Según se informó, estas personas se desplazaban de San Pedro Sula a Progreso en razón a cuestiones relacionadas con su actividad sindical.

1146. Se alegó que los asesinatos de estas dirigentes sindicales podrían estar directamente relacionados con sus actividades en defensa de los derechos humanos. Tras estos asesinatos, se expresó profunda preocupación por la integridad física y psicológica de los líderes sindicales y de los dirigentes de movimientos sociales que actualmente podrían encontrarse en peligro en Honduras y se reiteró la importancia de implementar medidas de protección a fin de mejorar la seguridad de las mismas.

### **Respuesta del Gobierno**

1147. Mediante carta recibida el 15 de junio de 2008, el Gobierno respondió a la carta de alegaciones. La carta confirmó los hechos de la carta de alegaciones que el 24 de abril de 2008, como a eso de las 12h50, se produjo el asesinato de las Sras Rosa Altagracia Fuentes y Virginia García de Sánchez y del Sr. Juan Bautista Aceituno Estrada en la carretera que conduce de San Pedro Sula hacia la ciudad de El Progreso, Departamento de Yoro. La carta informó que una investigación había empezado; que se hizo una inspección en el Hospital de "El Progreso," lugar donde murió la Sra. Virginia García de Sánchez; que tomó de declaración de testigos; se hizo una inspección en la escena del crimen; que se realizó una comparación de escenas con similares patronos de ejecución y que se realizan diligencias investigativas complementarias para presentar el correspondiente requerimiento fiscal, contra las personas, que del resultado de la investigación estén materialmente individualizadas.

### **Llamamiento urgente**

1148. El 16 de julio de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción del derecho a la libertad de opinión y expresión enviaron un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el **Comité de Familiares de Detenidos Desaparecidos en Honduras (COFADEH)** y su Coordinadora General, **Sra. Bertha Oliva de Nativí**. COFADEH es una organización que trabaja contra la corrupción y la impunidad en Honduras.

1149. De acuerdo con las informaciones recibidas, la noche del 3 de julio de 2008, gente desconocida habría entrado en las oficinas del COFADEH sin permiso. Habría llevado dos ordenadores portátiles, tres cámaras fotográficas, dos videocámaras y tres memorias USB que se habrían utilizado para guardar información importante del ordenador. Se habrían descubierto el allanamiento y el robo sobre las 07.30h de la mañana siguiente. La policía investigativa habría llegado cinco horas después.

1150. La noche del 6 de julio de 2008, la Sra. Bertha Oliva Nativí, Coordinadora General del COFADEH, habría sido seguida en su coche con su menor hija hasta el parqueo colectivo de la residencial donde vive por desconocidos en un pick-up verde de marca Toyota. El coche habría parado cuando los desconocidos se habrían dado cuenta de que el vigilante del parqueo estaba allí, y habrían esperado a media cuadra para estar seguros de que la Sra. Bertha Oliva Nativí les había visto. Además, el 2 de julio de 2008 un representante de una Agencia Cooperante habría sido seguido después de una reunión con la Sra. Bertha Oliva Nativí.

1151. Se expresó preocupación que el allanamiento en las oficinas del COFADEH y el robo de equipo de la organización, así como el seguimiento de la Sra. Bertha Oliva Nativí, podrían estar directamente relacionados con las actividades del COFADEH. En vista de lo aquí resumido, se expresó preocupación por la integridad física y psicológica de los integrantes del COFADEH así como la de la Sra. Bertha Oliva de Nativí y su familia. El ataque contra las oficinas del COFADEH y el seguimiento de la Sra. Bertha Oliva Nativí, de ser confirmados, se enmarcan en un contexto de gran vulnerabilidad de los defensores de derechos humanos en Honduras.

### **Carta de alegaciones**

1152. El 19 de agosto de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias enviaron una carta de alegaciones, señalando a la atención del Gobierno información recibida en relación con el Sr. **Irene Ramírez**, antiguo miembro de la Empresa Asociativa Campesina “14 de julio” del Movimiento Campesino del Aguán, y afiliado a la Central Nacional de Trabajadores del Campo (CNTC).

1153. Según las informaciones recibidas, el 11 de junio de 2008, aproximadamente a las 10.30 p.m., el Sr. Irene Ramírez habría sido asesinado en la ciudad de Trujillo, Colón. El

día anterior el Sr. Irene Ramírez habría afirmado públicamente, en la Radio Católica de Trujillo, la necesidad de la aplicación del Decreto 18-2008. Este decreto, que habría entrado en vigor el 29 de abril de 2008, facilitaría la transferencia de tierra que estaba en manos del ejército del antiguo Centro Regional de Entrenamiento Militar del ejército a las familias campesinas que habrían luchado por ella. Poco antes de su asesinato el Sr. Irene Ramírez habría denunciado en una asamblea del Movimiento Campesino del Aguán que había recibido amenazas de muerte de terratenientes y ganaderos de esa zona.

1154. Se expresó preocupación que el asesinato del Sr. Irene Ramírez podría estar relacionado con sus actividades en la defensa de los derechos de tierra. También se expresó preocupación que este asesinato se haya enmarcado entre varios asesinatos de defensores de los derechos humanos, sindicalistas y miembros de movimientos sociales en Honduras.

1155. En este contexto, se señalaron a la atención del Gobierno las cartas de alegaciones ya enviadas en relación con los asesinatos de miembros de movimientos sociales. El 16 de junio de 2005, se envió una carta de alegaciones en relación con el asesinato del Sr. Edickson Roberto Lemus, coordinador de la Central Nacional de Trabajadores del Campo (CNTC); el 20 de febrero de 2007, se envió una carta de alegaciones sobre los asesinatos de los Sres. Heraldo Zuñiga y Roger Ivan Cartagena, miembros del movimiento ambientalista de Olancho, a manos de agentes de la policía; el 19 de abril de 2008, se envió una carta de alegaciones en relación con el asesinato del Sr. Luis Gustavo Galeano Romero, coordinador del Programa de Auditoría Social del Comisionado Nacional de los Derechos Humanos de Honduras (CONADEH) en la ciudad de Tocoa, Departamento de Colón; el 19 de mayo de 2008, se envió una carta de alegaciones en relación con el asesinato del Sr. José Iván Guardado, ingeniero forestal y miembro del Comité para la Defensa de los Derechos Humanos de Honduras (CODEH), en la Comunidad de Victoria, Departamento de Olancho; y el 23 de mayo de 2008, se envió una carta de alegaciones en relación con los asesinatos de la Sra. Rosa Altagracia Fuentes, Secretaria General de la Confederación de Trabajadores de Honduras (CTH) y segunda Vicepresidenta de la Región Centroamericana de la Confederación Sindical de Trabajadores de las Américas (CSA), y de la Sra. Virginia García de Sánchez, afiliada a la Unión de Mujeres Campesinas de Honduras (UMCAH).

1156. Se agradecieron las respuestas del Gobierno, fechadas 24 de junio de 2005, 16 de junio de 2008, 4 de julio de 2008, y 18 de julio de 2008 a las cartas de alegaciones de 16 de junio de 2005, 23 de mayo de 2008, 20 de febrero de 2007, y 19 de mayo 2008 respectivamente.

1157. La primera de estas respuestas informó que se conocía la identidad del asesino del Sr. Edickson Roberto Lemus, y que seguían las investigaciones para averiguar el motivo del asesinato y si existían autores intelectuales del crimen. Se solicitó más información respecto al progreso de este caso desde junio de 2005.

1158. En el caso de las Sras Rosa Altagracia Fuentes y Virginia García de Sánchez, la respuesta del Gobierno dio información sobre las medidas adoptadas para investigar los

asesinatos e comunicó que se iba a presentar un requerimiento fiscal contra los culpables una vez identificados. Dado que había pasado ya cuatro meses desde los asesinatos de abril de 2008, se solicitó más información sobre las investigaciones y la acción judicial tomada en relación con el caso. En particular, se solicitó información respecto a si se habían identificado a los asesinos de las Sras Rosa Altagracia Fuentes y Virginia García de Sánchez y exactamente qué acción se iba a tomar en su contra una vez identificados.

1159. La respuesta del Gobierno respecto al caso del Sr. José Iván Guardado indicó que las instituciones competentes continuaban con las investigaciones sobre el caso.

1160. En el caso de los miembros del movimiento ambientalista de Olancho, la respuesta del Gobierno comunicó que los agentes de policía responsables por el asesinato habían sido identificados y que, el 5 de febrero de 2007, el Juzgado Seccional de Letras de Catacamas Olancho decretó auto de prisión por el delito de homicidio y se les dictó medida cautelar de prisión preventiva. Sin embargo, dado que habían pasado 18 meses desde febrero de 2007, se solicitó información más reciente respecto al caso. En particular se solicitó información sobre la situación de los agentes de la policía sospechados del homicidio de los dos miembros del movimiento ambientalista.

1161. Mientras que se agradeció recibir las respuestas ya enviadas por el Gobierno, y las acciones tomadas para investigar los asesinatos de los defensores de derechos humanos, se rogó que se proporcionara información más reciente sobre estos casos y que se informara de si se ha investigado el asesinato del Sr. Luis Gustavo Galeano Romero.

### **Respuesta del Gobierno**

1162. Mediante carta fechada 25 agosto de 2008 el Gobierno respondió a la carta de alegaciones. La carta afirmó los detalles de la muerte de Sr. Irene Rodríguez y de que fue asesinado el 11 de junio de 2008. En esta carta, la Secretaria de Relaciones Exteriores comunicó que han efectuado las acciones pertinentes; de que el 9 de julio de 2008, la Secretaría de Seguridad

1163. Presentó requerimiento Fiscal contra los señores Julio César Galán Rodríguez, Reynaldo Crespo y Cristófer Mauricio Medina Flores, como supuestos responsables del asesinato, que el 15 de julio se realizó la Audiencia Inicial en la cual se decretó Auto de Prisión en contra dichos Señores; y que la Investigación preparatoria apuntó a una supuesta autoría intelectual que refuerza la tesis del móvil político en el asesinato del Sr. Irene Rodríguez.

### **Carta de alegaciones**

1164. El 1 de septiembre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión enviaron una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con los Sres. **Raymundo Rodríguez, Abel Hernández, Jairo Domingo, Franklin Martínez,**



integrantes del Comité Ambientalista de Orica, y **Mario Adolfo López**, integrante del Comité Ambientalista de Agalteca.

1165. Según las informaciones recibidas, el 20 de julio de 2008, aproximadamente a las 20h00, miembros de la policía habrían arrestado a los Sres. Raymundo Rodríguez, Abel Hernández, Jairo Domingo y Franklin Martínez, después de haber entrado en la casa del Sr. Abel Hernández sin orden de allanamiento ni de registro. Los policías les condujeron al puesto policial en San Francisco, Municipio de Orica. Habrían golpeado al Sr. Raymundo Rodríguez quien habría sufrido la fractura de cuatro costillas y, a raíz del ataque, habría tenido que permanecer en un hospital hasta el 6 de agosto de 2008. El caso se habría denunciado ante la Fiscalía de Derechos Humanos y la Secretaría de Seguridad.

1166. Además, el 3 de agosto de 2008, el Sr. Mario Adolfo López habría sufrido un ataque. Un individuo le habría golpeado en la cabeza con un arma de fuego.

1167. Se expresó preocupación que los arrestos de los Sres. Raymundo Rodríguez, Abel Hernández, Jairo Domingo y Franklin Martínez, así como los ataques contra los Sres. Raymundo Rodríguez y Mario Adolfo López podrían estar relacionados con sus actividades legítimas de defensa de los recursos naturales en el Departamento de Francisco Morazán. Se expresó gran preocupación por la integridad física y psicológica de dichos defensores de los derechos medioambientales.

### **Llamamiento urgente**

1168. El 7 de octubre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión enviaron un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con la vigilancia y la intimidación del **Sindicato de Trabajadores de la Universidad Nacional de Honduras (SITRAUNAH)**, y su Presidente, el Sr. **René Andino**.

1169. De acuerdo con las informaciones recibidas, el 10 de septiembre de 2008, unos miembros del SITRAUNAH habrían visto a un individuo sacar fotos de las instalaciones del sindicato. Cuando el Sr. René Andino habría pedido que el individuo se identificara, éste habría contestado que era agente policial y que estaba allí bajo órdenes del Ministro de Seguridad de vigilar la sede del SITRAUNAH para proceder con la eliminación de sus miembros. Otro policía, quien habría llegado más tarde en motocicleta, habría expresado el mismo objetivo que su compañero. También habría llevado una lista de 136 personas, entre ellos sindicalistas y miembros de órdenes religiosas. Unos nombres de la lista, distinguidos de los otros por las palabras “ya fallecidos”, habrían sido de individuos ya asesinados.

1170. El 17 de septiembre, los policías y los miembros del SITRAUNAH habrían presentado declaraciones ante el Juez Primero de lo Criminal del Departamento de Francisco Morazán. Mientras que se habría permitido que los policías hicieran su

declaración a solas, los sindicalistas habrían tenido que hacerlo en presencia de los policías.

1171. Se expresó preocupación que la vigilancia y la intimidación del Sr. René Andino y el SITRAUNAH podrían estar relacionadas con sus actividades legítimas en la defensa de los derechos humanos. Se expresó gran preocupación por la integridad física y psicológica de todos los miembros del SITRAUNAH, así como la de otros defensores de los derechos humanos en Honduras.

### **Llamamiento urgente**

1172. El 31 de octubre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión enviaron un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con las Sras. **Lorna Redell Jackson García** y **Juana Leticia Maldonado Gutiérrez**, Presidenta y Secretaria respectivamente del Sindicato de Trabajadores de AFL Honduras (SITAFLH), así como cuatro otros miembros de la comisión directiva del SITAFLH. Este sindicato se fundió para combatir las violaciones de los derechos de los trabajadores de AFL, una fábrica de piezas de coches. En junio de 2007, AFL Honduras habría despedido a todos los miembros del SITAFLH. Seis meses después, habría devuelto el trabajo a la Sra. Lorna Redell Jackson García y otros miembros del SITAFLH. En agosto de 2008, AFL Honduras habría cerrado sus operaciones en el país.

1173. Desde el 16 de junio de 2005, titulares de mandato han enviado comunicaciones al Gobierno de su Excelencia en relación con los supuestos asesinatos de ocho sindicalistas en Honduras. El 7 de octubre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión enviaron otra comunicación al Gobierno de su Excelencia en relación con la vigilancia y la intimidación del Sindicato de Trabajadores de la Universidad Nacional de Honduras (SITRAUNAH), y su Presidente, el Sr. René Andino.

1174. Según las nuevas informaciones recibidas, en julio de 2008, los seis miembros del SITAFLH mencionados arriba habrían empezado a recibir llamadas telefónicas y mensajes de texto amenazándoles de muerte. El 18 de julio de 2008, la Sra. Lorna Jackson y sus colegas del SITAFLH habrían organizado una reunión con una estación de televisión local, que supuestamente había llevado a cabo una campaña difamatoria contra el SITAFLH. Mientras los miembros del SITAFLH habrían estado esperando al lado de una carretera antes de la reunión, un pick-up blanco sin placas se habría acercado a ellos. Dos hombres con pistolas habrían bajado para averiguar que eran “los del sindicato”. Los hombres les habrían informado que habían sido pagados para matarles pero no lo harían si los sindicalistas les ofrecieran más dinero. Luego se habrían ido en el pick-up.

1175. El 11 de septiembre de 2008, las Sras. Lorna Redell Jackson García y Juana Maldonado Gutiérrez habrían estado de compras en el Progreso, el Yoro.

Aproximadamente a las 17h00. se habrían dado cuenta de que dos hombres las seguían en motocicleta. Las sindicalistas habrían parado en una tienda cercana para comprar una bebida cuando uno de los hombres habría sacado una pistola, les habría disparado y se habría ido con el otro hombre en motocicleta. Después de este acontecimiento, las dos sindicalistas así como cuatro otros miembros de la comisión directiva del SITAFLH se habrían escondido.

1176. El 21 de octubre de 2008, la Sra. Lorna Redell Jackson García habría recibido una llamada a su teléfono móvil de un hombre que le habría dicho “¿Dónde estás, vieja? ¿Dónde te has metido? Aunque te vayas al infierno te vamos a encontrar”. La Sra. Lorna Redell Jackson García no habría denunciado estas amenazas a las autoridades.

1177. Se expresa preocupación que las amenazas y los ataques contra los miembros del SITAFLH podrían estar relacionados con sus actividades legítimas en la defensa de los derechos laborales. Se expresa gran preocupación por la integridad física y psicológica de dichos miembros del SITAFLH. Estos hechos, de ser confirmados, se enmarcan en un contexto de gran vulnerabilidad para los sindicalistas en Honduras.

### **Observaciones**

1178. La Relatora Especial agradece al Gobierno las respuestas proporcionadas en relación con los llamamientos enviados el 23 de mayo de 2008, el 19 de mayo de 2008, y el 20 de agosto de 2008. Sin embargo, la Relatora Especial sigue preocupada por la seguridad y la integridad física y psicológica de los defensores de los derechos humanos en Honduras y está especialmente preocupada por las alegaciones de que agentes policiales hayan estado directa o indirectamente implicados en atentados contra los derechos de activistas de los derechos humanos. Se expresa preocupación por los varios casos de supuestas amenazas dirigidas en contra de defensores de derechos laborales. La Relatora Especial agradece la invitación para visitar Honduras y estará en contacto con el Gobierno para identificar fechas apropiadas.

### **India**

#### **Urgent appeal**

1179. On 13 December 2007, the then Special Representative, together with the Special Rapporteur on the right to food, sent an urgent appeal to the government concerning Dr **Lenin Raghuvanshi** and Mr **Manoj Kumar**. Dr Lenin Raghuvanshi and Mr Manoj Kumar are convenor and staff member of the People's Vigilance Committee on Human Rights (PVCHR) in Varanasi, Uttar Pradesh state, respectively. Dr. Lenin Raghuvanshi was the subject of a joint urgent appeal sent by the Special Representative of the Secretary-General on the situation of human rights defenders, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on 16 August 2005.

1180. According to information received, on 4 December 2007, from approximately 4.45pm (Indian Standard Time), Dr. Lenin Raghuvanshi reportedly received anonymous threatening phone calls on his mobile phone from callers warning him that he would be shot and killed if the PVCHR continued to report cases of deaths from starvation and malnutrition in the Uttar Pradesh state. The callers also informed him that if the PVCHR continued its activities, staff members were to be charged with fabricated charges and the PVCHR itself forced to close down. There had been national media coverage of the death of a three-year-old boy from starvation on 25 November 2007 that was reported by the PVCHR. Its staff member, Mr. Manoj Kumar, working in the Ambedkarnagar district where the boy lived, has reportedly also been receiving threats.

1181. Concern was expressed for the physical and psychological integrity of Dr. Lenin Raghuvanshi and Mr. Manoj Kumar. Further concern was expressed that the aforementioned threats against Dr. Lenin Raghuvanshi and Mr. Manoj Kumar may be directly related to the human rights activities of the PVCHR, in particular its work to defend the right to food in India.

### **Letter of allegations**

1182. On 14 February 2008, the then Special Representative sent a letter of allegation to the Government concerning Dr **Lenin Raghuvanshi** and other **staff members** of the People's Vigilance Committee on Human Rights (PVCHR). Dr Raghuvanshi, in his capacity as Convener of the PVCHR, has focused on the right to food and on victims of death due to starvation. He is also a member of the District Vigilance Committee on Bonded Labour in the State of Uttar Pradesh. Dr Raghuvanshi was previously been the subject of a joint urgent appeal sent by the Special Representative, together with the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, on 16 August 2005, and of a joint urgent appeal sent by the Special Representative, together with the Special Rapporteur on the right to food on 13 December 2007.

1183. According to information received, on 23 January 2008, Dr Raghuvanshi reportedly appeared before the Judicial First Class Magistrate Court 1 to present his application for bail, which was accepted as the Court ruled that there was no reason for him to be detained. Furthermore, the Magistrate ruled that the complaint filed against Dr Raghuvanshi on 9 December 2007 by the village head of Belwa in the Badagaon administrative district, Mr Rajendar Thripathi, for "anti-state activities" could not be registered due to insufficient evidence. Dr Raghuvanshi, along with Ms Anupam Nagavanshi and Ms Shruti Nagavanshi, also staff members of the PVCHR, have been charged with "statements conducive to public mischief", under Section 505(b) of the Indian Penal Code, 1860. However, the Court reportedly ordered that they are not to be arrested in relation to these charges until further notice. Due to questions regarding the procedure that was followed in this case, the Magistrate has ordered the Phulpur police to produce all documents relevant to this case before 29 January 2008.

1184. As previously noted in the urgent appeal of 13 December 2007, Dr Raghuvanshi and the staff of the PVCHR received several threats between 4 and 6 December 2007. It is alleged that Dr Raghuvanshi was also the subject of intimidation by Mr Rajendar Thripathi and his associates on several occasions.

### **Urgent appeal**

1185. On 19 February 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government concerning Mr **Lachit Bordoloi**, a journalist and a peace activist. Mr Bordoloi is also the adviser of Manab Adhikar Sangram Samiti (MASS), the convener of the Peoples Committee for Peace Initiatives in Assam (PCPIA) and a member of the Peoples Consultative Group (PCG).

1186. According to information received; on the night of 9 February 2008, Mr Bordoloi's home in Guwahati was reportedly raided by members of the Guwahati police while he was absent. The police seized his laptop and other material without presenting any warrant to his family members. On 11 February 2008, police reportedly stopped the bus in which Mr Lachit Bordoloi was returning from a meeting in Tinsukia district to Guwahati, arrested him and brought him to the Dibrugarh Police Station. The following day, Mr Bordoloi was transferred to Chandmari police station in Guwahati, and placed on remand there for five days. On 18 February, he was remanded in police custody for a further two days by the Chief Judicial Magistrate of Kamrup District. He was reportedly charged with "having a role in fund collecting for the United Liberation Front of Assam (ULFA)", an active armed group in the State of Assam, under the Unlawful Prevention Activities Act and with "waging war against the State" under sections 120B and 121 of the Penal Code.

1187. On 8-9 February 2008, the police had arrested two supposed ULFA activists and, subsequently, police spokespersons had stated that the arrested activists were due to try and hijack a plane and that prominent persons were helping them. It is believed that Mr. Bordoloi may have been arrested on the basis of a statement given by one of the two detainees. Reports suggested that Mr Bordoloi had been repeatedly threatened, harassed and intimidated by the Superintendent of Police (SP) in Nagaon district, Assam, since the former published an article in 2001 in the Assamese daily Asomiya Protidin. The article highlighted corrupt practices on the part of police in Nagaon and led to a high-level departmental inquiry concerning the SP for Nagaon.

1188. Concern was expressed that the arrest and detention of Mr Lachit Bordoloi may be directly related to his activities in defense of human rights, particularly his exercise of the right to freedom of expression through criticism of alleged corruption in the police force of Nagaon. Concern was also expressed for his physical and psychological safety while in detention.

### **Letter of allegations**

1189. On 28 February 2008, the then Special Representative sent a letter of allegations to the Government concerning Mr **Arumugam Katuraja Kanagaraj**, a Dalit human rights activist and the District human rights monitor in Salem district (Tamil Nadu) of the National Project on Preventing Torture in India of People's Watch.

1190. According to the information received, on the morning of 15 February 2008, Mr Arumugam Katuraja Kanagaraj was assaulted at his house in Ganaesapuram, allegedly by associates of the President of the town of Vellalapatti, Mr Moorthy. Mr Kanagaraj was then reportedly brought to Mr Moorthy's house, where the men continued to beat him. In connection with a complaint filed by Mr Moorthy, Mr Kanagaraj was handed over to officers at the police station of Ethapur (Salem district), where he may also have been beaten. Mr Utharapathy, the Police Inspector, and Mr Baskaran, the Superintendent of Police of the Salem District, were immediately informed about this by Mr Henri Tiphagne, Executive Director of People's Watch-Tamil Nadu. On the afternoon of 15 February 2008, Mr Kanagaraj was admitted to hospital in Salem, where he underwent medical treatment for the injuries resulting from the assaults. It was reported that Mr Kanagaraj might be arrested again by the police on the basis of the complaints filed by the President of Velalapatti.

1191. Furthermore, Mr Moorthy and his associates had allegedly made death-threats against Mr Kanagaraj and threatened members of his community that they would face dire consequences if they made statements to police in his favour. Reports indicated that Mr Kanagaraj has been threatened and had complaints filed against him on several occasions after he registered a series of complaints against the President of Vellalapatti regarding alleged irregularities, including corruption and bribery, in the local administration.

1192. Concern was expressed that the assault and detention of Mr Arumugam Katuraja Kanagaraj may be related to his activities in defense of human rights, particularly his work to prevent corruption within local government. Furthermore, in light of the death threats made against Mr. Kanagaraj and his possible pending arrest, concern was expressed for his physical and psychological integrity.

### **Letter of allegations**

1193. On 11 March 2008, the then Special Representative sent a letter of allegations to the Government concerning Mr **Julfikar Ali**, a District Human Rights Monitor (DHRM) in Murshidabad, who forms part of the National Project for Preventing Torture in India (NPPTI) programme.

1194. According to information received, on 12 January 2008, a complaint was filed against Mr Julfikar Ali and three other persons by Border Security Force (BSF) Inspector Vikash Chandra at Ranninagar Police Station. Mr Ali was reportedly charged under Sections 147 (rioting), 148 (rioting, armed with deadly weapon), 149 (unlawful assembly), 186 (obstructing public servants), 353 (assault to deter a public servant from discharge of his duty), 307 (attempted murder) and 326 (willfully causing grievous hurt

by dangerous weapons or means) of the Indian Penal Code. In the complaint, neither Mr Julfikar Ali's name (recorded as Julfikar Shiekh), nor address was correct.

1195. The complaint related to an incident which reportedly took place on the night of 11 January 2008 at the Kaharpara border outpost. Reports indicated that the other three persons mentioned in the complaint are not known to Mr Julfikar and that he was not in the vicinity of the Kaharpara border outpost on the night in question. Furthermore, on 30 January 2008, the police came to Mr Ali's house and questioned his relatives, who informed them that he was in Bangladesh to investigate cases of Indian citizens detained there. To date, Mr Julfikar Ali had still not been officially informed about the complaint against him.

1196. Concern was expressed that the complaint filed against Mr Julfikar Ali may be directly related to his activities in defense of human rights, particularly his reporting of cases of alleged violations of human rights by members of the Border Security Force in relation to ill-treatment and torture in Murshidabad. Further concern was expressed for his physical and psychological integrity.

### **Urgent appeal**

1197. On 16 April 2008, the then Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government concerning Dr **Binayak Sen**, medical doctor and General Secretary of the People's Union for Civil Liberties (PUCL), Chhattisgarh, and Vice-President of PUCL National. Dr Sen has actively advocated access to healthcare for adivasi communities in the state of Chhattisgarh, and he has been instrumental in highlighting alleged human rights abuses against these communities, including unlawful killings, sexual abuse and forced disappearances. Dr Sen was the subject of a letter of allegation sent by the Special Representative on the situation of human rights defenders to the Government on 1 June 2007, to which no reply has yet been received.

1198. According to information received, on 15 March 2008, Dr Binayak Sen, who had been in detention at the Raipur Central Prison since May 2007, was placed under solitary confinement at the Raipur Central Jail, in Chhattisgarh. It was not known why the conditions of Dr Sen's detention have changed and he had not had any access to legal representation since being placed in solitary confinement.

1199. Dr Sen had been detained since 14 May 2007 under the Chhattisgarh Special Public Security Act 2006 (CSPSA) and the Unlawful Activities (Prevention) Act 2004, due to alleged links with the Naxalite Maoist guerrilla. To date, it was not known whether any charges had been brought against Dr Sen since his detention.

1200. Concern was expressed that the reported continued detention and the placement under solitary confinement of Dr Binayak Sen may be directly related to his activities in defense of human rights, particularly his advocacy of the rights of adivasi communities in

his capacity as a leader of the People's Union for Civil Liberties. In light of reports of Dr Sen's detention in solitary confinement, further concern was expressed for his physical and psychological integrity.

### **Letter of allegations**

1201. On 28 April 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation to the Government concerning mass arrest of participants in the "The Long March for Justice for Special Task Force (STF) Victims", including Messrs **Henri Tiphagne**, Executive Director of People's Watch, **Mahaboob Batcha**, Managing Trustee of the Society for Community Organisation Trust (SOCO Trust), and **V.P. Gunasekaran**, District Secretary of the Communist Party of India.

1202. According to information received, on 20 April 2008, the Long March for Justice for STF Victims commenced from Erode District, Tamil Nadu. The peaceful march, which had reportedly been refused police permission, was organized in the framework of the Campaign for Relief and Rehabilitation of Victims of violence allegedly perpetrated by the STF in the states of Karnataka and Tamil Nadu. At 9.30 a.m., a public meeting took place in Sathyamangalam, after which approximately 500 persons proceeded with the march. On the outskirts of Sathyamangalam, police officers prevented the marchers from advancing. Four hundred of the marchers, including the above-mentioned individuals, were then reportedly arrested and taken into under police custody at the Ramasamy Goundar Maryammal Wedding Hall in Sathyamangalam.

1203. On the evening of 20 April 2008, police released the demonstrators, who subsequently moved to Anthiyur to participate in a public meeting of over 1,000 people. The organizers then decided to continue the protest. The following day, media reported that a clarification had been issued by the state administration, stating that victims had already been compensated and that the Government of Tamil Nadu had fulfilled its obligations. On the morning of 21 April 2008, the local police informed the organizers that they had been given instructions to arrest them if they continued to demonstrate. At 9.30 a.m., the protestors were stopped by the police, who reportedly arrested 115 marchers, including 38 women and one child.

1204. Concern was expressed that the aforementioned arrests may be related to the protestors' activities in defense of human rights; their peaceful exercise of the right to freedom of expression and assembly and their protest against alleged crimes perpetrated by members of the Special Task Force.

### **Response from the Government**

1205. In a letter dated 19 January 2009, the Government responded to the communication sent on 28 April. In transmitting the reply of the concerned authorities in India, the Government noted that the allegation contained in the communication was examined by the Government and that an enquiry was conducted on the above incident



by the concerned authorities. It was revealed that the aforementioned individuals along with 205 other party members intended to go on a protest march from Exode to Chennai in order to draw attention to the relief and rehabilitation of the purported Special Task Force victims. However, in violation of law, they did not seek any prior permission from the concerned police authorities. If they had been allowed to proceed with this march it could have resulted in a disruption of law and order and inconvenienced the general public. Hence, as a preventive measure, the aforementioned persons were taken into police custody as per law and a case was registered against them. However, they were released on the very same day and all further action against them was dropped.

### **Urgent appeal**

1206. On 16 May 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning Mr **Sapam Kangleipal Meetei**, President of the Manipur Forward Youth Front (MAFYF), a civil society organization which works for the protection and promotion of human rights, peace building and social issues at the grass-roots level.

1207. According to information received, on 7 May 2008, at approximately 7pm, Mr Sapam Kangleipal Meetei was arrested after speaking publicly at the Manipur Press Club in Imphal. In the course of this speech, Mr Sapam Kangleipal Meetei was said to have advocated an attempt to reach a permanent solution to the conflict in Manipur State, claiming that, in arming civilians to counter insurgent groups in the State, the authorities negated the purpose of an elected government, and that this approach would lead to anarchy. He also reportedly drew attention to a Supreme Court directive which prohibits the arming of civilians. It was reported that two police officers used force to switch off the live telecast during the speech. Mr Sapam Kangleipal Meetei was reportedly charged with undermining the security of the state and encouraging insurgency under section 124 A of the Indian Penal Code and section 9 of the Punjab Security Act and Section 8 (b) under the Assam Maintenance of Public Order Act (FIR 129 (5) 08 IPS).

1208. On 8 May 2008, Mr Sapam Kangleipal Meetei appeared before the Chief Judicial Magistrate in Imphal, where he was remanded to police custody until 13 May 2008. He was then released on bail, before being immediately rearrested under Section 3 (2) of the National Security Act, 1980, reportedly for activities prejudicial to the maintenance of public order. Under this legislation, Mr Sapam Kangleipal Meetei might be detained for up to one year. It is reported that the MAFYF, supported by other civil society organizations, has called a general strike for 14 May 2008 in protest at the detention of Mr Sapam Kangleipal Meetei.

1209. Concern was expressed that the arrest of Mr Sapam Kangleipal Meetei may be directly related to his work in defence of human rights, and in particular, to his exercise of the right to freedom of expression.

### **Response from the Government**

1210. In a letter dated 28 January 2009, the Government responded to the urgent appeal of 16 May 2008. The Government informed that the allegation contained in the communication was examined by the Government of India and informed that Mr Sapam Kangleipal Meetei was arrested in the interest of public safety. During the investigation of the case, it has been well established that Mr Sapam Kangleipal Meetei had close nexus with the outlawed Kangleipak Communist Party (KCP) and Kanglei Yaol Kanna Lup (KYKL), even to the extent of helping these outlawed organizations in procuring sophisticated arms and ammunitions from foreign countries for insurgent activities.

### **Urgent appeal**

1211. On 23 May 2008, the Special Rapporteur sent an urgent appeal to the Government concerning Mr **Lenin Raghuvanshi**, Convener of the People's Vigilance Committee on Human Rights (PVCHR) in Varanasi, State of Uttar Pradesh. Mr Lenin Raghuvanshi has focused his work on the right to food and on victims of death due to starvation and he is also a member of the District Vigilance Committee on Bonded Labour.

1212. Mr Lenin Raghuvanshi was previously the subject of a letter of allegation sent by the former Special Representative of the Secretary-General on the situation of human rights defenders on 14 February 2008, as well as of a joint urgent appeal sent by the former Special Representative, together with the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, on 16 August 2005, and of a joint urgent appeal sent by the former Special Representative, together with the Special Rapporteur on the right to food on 13 December 2007. The Special Rapporteur on the situation of human rights defenders regrets that no reply to date to any of the three communications has been received and as such, would greatly appreciate a response from Your Excellency's Government as soon as possible.

1213. According to information received, on 26 April 2008, Mr Lenin Raghuvanshi began to receive abusive and threatening phone calls, which warned him to end the PVCHR's work in the district of Varanasi. On 18 May, he received a phone call, thought to be from a powerful member of a criminal group in Uttar Pradesh, which threatened that if the PVCHR did not stop working for the Musahar community, a Dalit group subject to caste-based discrimination, men hired by upper caste feudal lords would raze Musahar ghettos and villages in Varanasi. The caller also questioned Mr Lenin Raghuvanshi about the funding of the PVCHR, in what is believed to be a warning to the PVCHR to pay protection money to local mafias.

1214. Concern was expressed that the threats and intimidation directed against Mr Lenin Raghuvanshi may be directly linked to his work and that of the PVCHR in defense of human rights, in particular the rights of Dalit communities in the State of Uttar Pradesh.

In view of these threats, serious concern was expressed for the physical and psychological integrity of Mr Lenin Raghuvanshi and the members of the PVCHR.

### **Response from the Government**

1215. In a letter dated 28 January 2009, the Government responded to the urgent appeal of 23 May 2008. The allegations contained in the communication were examined by the Government, which informed that a complaint was lodged in Thana Cant, Varanasi, following which a chargesheet was sent to the court on 21 July 2008 against accused Bulbul Singh alias Uday Narayan Singh. In the meantime, necessary instructions were issued to the local police station to provide adequate security to Dr Lenin.

### **Letter of allegations**

1216. On 10 June 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning Messrs **Henri Tiphagne**, Executive Director of People's Watch and member of the National Human Rights Commission of India; **S. Martin**, Regional Law Officer at People's Watch; and **G. Ganesan** and **M.J. Prabakar**, both State Monitoring Officers at the same organization.

1217. People's Watch, a non-governmental organisation based in Tamil Nadu, is part of the National Project on Preventing Torture in India (NPPTI), which currently operates in nine states and of which Mr Tiphagne is National Director. The aforementioned was also one of the subjects of a letter of allegation sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders on 28 April 2008, to which, to date, no reply has been received from your Excellency's Government.

1218. According to information received, between 29 and 31 May 2008, complaints were filed against the four aforementioned individuals under sections 147, 342, 366, 323, 332, and 225 of the Indian Penal Code (rioting, wrongful confinement, kidnapping/abducting, voluntarily causing hurt, deterring a public servant from his duty, and resistance/obstruction of lawful apprehension of another person). These charges were brought following the People's Tribunals on Torture, organized by People's Watch within the framework of the NPPTI, during which there were allegations of police harassment, arbitrary detention and intimidation of victims who had come to testify at the Tribunal

1219. It was alleged that the charges brought against the aforementioned individuals may be directly related to their activities in defense of human rights, in particular their efforts to end impunity for crimes of torture in India. In view of these reports, concern was expressed for the physical and psychological integrity of those named.

### **Urgent appeal**

1220. On 18 June 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, an urgent appeal to the Government concerning Mr **Kirity Roy**, President of Banglar Manabdhikar Suraksha Mancha (MASUM), a human rights non-governmental organization based in Kolkata, West Bengal. Mr Roy is also State Director of the National Project on Preventing Torture in India (NPPTI). Mr Roy was the subject of a letter of allegation sent on 14 December 2005 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders, and also of an urgent appeal and letter of allegation sent by the latter on 25 January 2006 and 9 January 2007 respectively.

1221. On 9 and 10 June 2008, MASUM coordinated the People's Tribunal on Torture (PTT) in Moulali, Kolkata, during which 1,200 victims and their families were present and 82 victims testified before the tribunal. Judicial harassment of other individuals in relation to the PTT was the subject of a communication sent by the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 10 June 2008.

1222. According to the new information received, on 12 June 2008, between 10 and 12, police officers from the Detective Department searched the MASUM premises. The police were led by the Assistant Commissioner of Police and 10 more armed officers waited outside. The operation was undertaken with a warrant issued by the Chief Metropolitan Magistrate, Kolkata, but without indicating the motive for the search warrant.

1223. On 10 June 2008, the Commissioner of Police Mr Gautam Mohan Chakrabarty had informed Mr Kirity Roy that a charge had been filed against him for his role in organizing the People's Tribunal on Torture. Reports indicated that the complaint against Mr Roy was filed under sections 179 (refusing to answer public servant authorised to question) and 229 (impersonation of juror or assessor) of the Indian Penal Code.

1224. Concern was expressed that the search of the offices of MASUM and the complaint filed against Mr Kirity Roy may be directly related to his activities in defense of human rights, in particular the protection of the rights of victims of torture through the People's Tribunal on Torture (PTT). Concern was expressed for the physical and psychological integrity of Mr Roy and that of all members of MASUM.

### **Letter of allegations**

1225. On 8 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegations concerning Dr **Andana Chatterji** convener of the *International People's Tribunal on Human Rights and Justice in Indian-administered Kashmir* and Mr **Parvez Imroz**,

lawyer and also convener of the tribunal, who have been subjected to intimidation and harassment. The civil society established tribunal, which began on 5 April 2008, was created in order to investigate allegations of systematic violence and human rights violations in Indian-administered Kashmir.

1226. According to information received, on 21 June 2008, Dr Andana Chatterji was followed from her hotel to the office of the tribunal by eight members of the intelligence service, who remained outside the office throughout the day and questioned anybody entering or leaving the building.

1227. The previous day, 20 June, Dr Andana Chatterji and Mr Parvez Imroz had been visiting mass graves in Indian-administered Kashmir and in the course of the day had been questioned by twelve intelligence personnel from Special Branch Kashmir (SBK) and Counter Intelligence Kashmir (CIK) regarding their activities, the villages they had visited and whether they had taken photographic or video evidence of what they had observed.

1228. After being questioned, they were followed and their vehicle was forcibly boarded in Shangargund, Sopore by members of intelligence personnel who did not show identification. They were then briefly detained at a police station where officers confiscated their tapes, claiming they contained objectionable and dangerous material and from where they were followed once again.

1229. Dr Andana Chatterji has previously been subject to harassment and intimidation. In April 2008, after announcing the formation of the tribunal, she was stopped and intimidated at immigration control when leaving India for the USA, where she is resident. In June 2008, when she was returning to India, she was subjected to similar treatment.

1230. Concern was expressed that the intimidation and questioning of Dr Andana Chatterji and Mr Parvez Imroz may be directly related to their activities in defense of human rights, in particular in their role in the civil society established International People's Tribunal on Human Rights and Justice in Indian-administered Kashmir. Further concern was expressed for the physical and psychological integrity of both individuals. Finally, concern was expressed that the incidents outlined may represent an attempt to restrict the work of the individuals, including as a lawyer, in addressing human rights violations in the region.

### **Urgent appeal**

1231. On 24 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, sent an urgent appeal to the Government in relation to information received regarding Mr **Shindu Chattar**, Mr **Rabindra Majhi**, Mr **Madhusudum Munda**, Mr **Kanderam Hemrom**, Mr **Duskar Barik**, Ms **Mamata Barik**, Ms **Jyanti Sethy** and Mr **Ranjan Patnaik**, all members of the Keonjhar Integrated Rural

Development and Training Institute (KIRDTI), an organisation which peacefully defends the land rights of adivasis (indigenous people) in Harichandanpur, Keonjhar District, Orissa State.

1232. According to information received, between 1 and 11 July 2008, four members of the KIRDTI were arrested on suspicion of having links with armed Maoist groups. On 1 July 2008, Mr Shindu Chattar was arrested. On 10 July 2008, Mr Rabindra Majhi and Mr Madhumusudum Munda were arrested. On 11 July 2008, Kanderam Hemrom was arrested. While in police custody Mr Rabindra Majhi was badly beaten.

1233. Following the arrests of the above members of the KIRDTI, on 11 July 2008, Mr Duskar Barik, Ms Mamata Barik, Ms Jyanti Sethy and Mr Ranjan Patnaik fled Keonjhar District, fearing torture and ill-treatment, after reports that police planned to question them too for having links with armed Maoist groups. On 12 July 2008, local newspapers published that Keonjhar Police believed that the KIRDTI had links with armed Maoist groups. The KIRDTI and other human rights organisations that work with them strongly denied these links, maintaining that their defence of indigenous land rights was entirely peaceful.

1234. District Collectors in Orissa have now pledged to guarantee that any questioning of the four members of the KIRDTI who fled from Keonjhar District would be carried out in a safe environment. However, the four members of the KIRDTI who were arrested remained in judicial custody and Mr Rabindra Majhi was not allowed access to a doctor.

1235. The pledge of the District Collectors to protect the members of the KIRDTI during questioning, as well as the transfer of the detained members of the KIRDTI from police custody to judicial custody, was welcomed. However, concern was expressed that the police's plans to question members of the KIRDTI may be related to their legitimate and peaceful activities in the defence of land rights of indigenous people in Keonjhar District. Concern was also expressed for the physical and psychological integrity of Mr Rabindra Majhi while in custody.

### **Response from the Government**

1236. In a letter dated 12 February 2009, the Government responded to the above communication. The Permanent Mission of India informed that the allegation contained in the communication was examined by the Government which found that the alleged harassment and torture of KIRDTI activists was baseless. According to the investigation report, about forty armed persons, including five women, entered the house of Ms Tulasi Mahanta (village Rebana Palasapal; police station Daitari; Keonjhar district), and assaulted the inmates, looted the house, damaged household articles and set fire to a tractor and four motorcycles while threatening Mr Tulasi Mahanta to leave the village. In connection with this incident, Mr Sindhu Chattar, Mr Rabindra Kumar Majhi, Mr Madhusudan Bodra and Mr Kanderam Hembram were subsequently arrested on the basis of evidence collected during the investigation. The above-mentioned arrested persons have confessed their involvement in the incident and also disclosed that Mr Diskar Barik,

Secretary of KIRDTI was also present at the time of the attack on the house of Mr Tulasi Mahanta on the night of 30 June 2008 and is in possession of illegal firearms. Further investigation also revealed that Mr Rabindra Kumar Majhi, Mr Madhusudan Bodra, Mr Kanderam Hembram and Mr Duskar Barik, all working for KIRDTI, are involved in violent Maoist activities. The Government noted that Mr Barik has been spreading reports of the harassment of members of KIRDTI in order to mislead the investigation and evade arrest.

### **Urgent appeal**

1237. On 23 September 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding the arbitrary detention and intimidation of members of the **Mapithel Dam Affected Ching-Tam Organization (MDACTO)**, an organization which opposes the construction of the Mapithel Dam in Manipur State in order to protect the rights of communities affected by this project.

1238. According to the information received, on 8 September 2008, members of the Manipur Commando Police took **T. Dewal, L. Bipin, L. Bobojit** and **H. Kendra Luwang** of the MDACTO from their homes and detained them for several hours. In detention they were forced to renounce their MDACTO membership and were warned not to rejoin the organization. They were released that evening. On 11 September 2008, five more members of the MDACTO (**T. Kumar Mangang**, an advisor; **Ramthar Saiza**, the Chairperson; **J.S. Wungreiso**, the Vice Chairperson; **Lenpu Lupheng**, the Secretary; **and S. Deben**, the Joint Secretary) were all summoned to the local police station for questioning. Fearing that they would be arrested because of their peaceful activities in protest against the dam construction project, they did not go. Subsequently, their homes were raided by security forces. Thereafter they stayed away from their homes, feeling that they were no longer safe to return to.

1239. Concern was expressed that the arbitrary detention and intimidation of the members of the MDACT may have been related to their activities in the defense of the rights of communities affected by the construction of the Mapithel Dam. Further concern was expressed for the physical and psychological integrity of the members of the MDACT.

### **Urgent appeal**

1240. On 7 October 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding Mr. **Kirity Roy**, lawyer and Secretary of Banglar Manabadhikar Suraksha Mancha (MASUM) and State Director of the National Project on Preventing Torture in India (NPPTI). MASUM is a human rights non-governmental organization based in Kolkata, West Bengal. On 9 and 10 June 2008, in Molali, Kolkata,

MASUM coordinated the People's Tribunal on Torture (PTT), an initiative which works within the framework of the NPPTI and aims to bring about justice in cases of police torture.

1241. Mr. Kirity Roy was the subject of communications sent by mandate holders on 14 December 2005, 25 January 2006, 9 January 2007 and 18 June 2008. The most recent of these communications concerned reports of a raid on the office of MASUM on 12 June 2008. The PTT was the subject of a communication sent by the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 10 June 2008. No responses to any of these communications have yet been received from the Government.

1242. According to new information received, on 18 September 2008, a complaint was filed by MASUM (Writ Petition 25022 (W)/2008 Kirity Roy vs State of West Bengal and others) before the Honorable High Court, Kolkata, regarding the alleged raid on their offices on 12 June 2008. On 27 September 2008, at approximately 4.00 p.m., a group of Kolkata Police agents whose identities are known entered the offices of MASUM to search for Mr. Kirity Roy who was not there at the time. They then requested three documents relating to three alleged victims of police torture who had sworn affidavits for the PTT.

1243. Concern was expressed that the harassment of Mr. Kirity Roy and MASUM may have been related to their legitimate activities in the defense of victims of police torture. Further concern was expressed that the incident described above may form part of an ongoing trend of harassment against human rights defenders involved in the investigation of police torture in India.

### **Letter of allegations**

1244. On 3 December 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion of freedom of opinion and expression, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the Special Rapporteur on violence against women, sent a letter of allegations to the Government concerning **Madesh M, Dil Faraz, Kokila, Sahana Bangena** and **Savita S**, members of the *Sangana* crisis intervention team. *Sangana* is an NGO working on issues related to the human rights of persons belonging to sexual minorities, especially *hijras* (male-to-female transsexuals).

1245. According to the information received, on 20 October 2008, Madesh M, Dil Faraz, Kokila, Sahana Bangena and Savita S went to the Grinagar police station as they had received news about five hijras being arrested and detained, and allegedly been beaten by members of the Grinagar police. As they tried to inquire about the detention of the hijras, the members of the Sangama crisis intervention team were assaulted and detained at the Grinagar police station, and later at the Banashankari police station. They have been accused of offences punishable under Section 143 (*unlawful assembly*), 145 (*joining unlawful assembly ordered to be dispersed*), 147 (*rioting*), and 353 (*obstructing*



*government officials in performing their duty*) of the Indian Police Code. They were brought before a magistrate and placed in judicial custody later that evening. All five crisis team members were released on bail on 22 October 2008.

1246. In the evening of 20 October 2008, approximately 150 human rights activists and lawyers gathered in front of the Banashankati police station to peacefully protest against the arrest and detention of the Sangama crisis team members and to try and negotiate their release. Six delegates from the protestors had been detained for about four hours at the police station and were subjected to physical and verbal abuse. In the meantime members of the Banashankati police attacked the peaceful protestors with sticks and subjected them to physical, verbal and sexual assault. Thirty-one human rights activists were placed into a small police van, and kept there for about seven hours.

1247. Concern was expressed that the harassment, arrest and detention of the five members of the NGO Sangama may have been solely related to their peaceful activities in defence of human rights, especially their work on the rights of sexual minorities, including hijras. Further concern was expressed that this may have formed part of an ongoing campaign of intimidation of the Bengaluru police force regarding hijras and NGOs acting in their defence.

### **Urgent appeal**

1248. On 20 November 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding Mr **Parvez Imroz**, and advocate and president of the Jammu Kashmir Coalition of Civil Society (JKCCS).

1249. Mr Imroz was previously the subject of an allegation letter sent by the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the independence of judges and lawyers, and the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. He was also the subject of urgent appeals sent by the then Special Representative of the Secretary-General on the situation of human-rights defenders and the Special Rapporteur on the independence of judges and lawyers on 1 May and 14 September 2006, of an urgent appeal sent by the then Special Representative of the Secretary-General on the situation of human rights defenders on 11 May 2005, for which we received a reply on 15 February 2005, and of an urgent appeal sent by the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture on 5 October 2004.

1250. According to the information received, on 17 November 2008, Mr Parvez Imroz was arrested along with several other persons, while he was monitoring the first phase of the Jammu and Kashmir state legislative election in Bandipora. The police dispersed an anti-election demonstration, allegedly using tear gas and batons. As Mr Imroz and his volunteers reached the spot of the demonstrations, they were beaten and dragged by

police officers. Mr Imroz and the two volunteers were taken to the Badinpora police station afterwards, and released at about 10.15 pm the same day.

1251. Concern was expressed that the alleged beating, arrest and detention of Mr Parvez Imroz may be related to his peaceful activities in the defence of human rights. Further concern was expressed regarding the physical and psychological integrity of Mr Imroz, especially in light of the several previous threats to his life and security.

### **Replies to communications from previous years:**

#### **Response from the Government**

1252. On 11 July 2008, the Government responded to the above letter of allegations. The response stated that, upon receiving a call, local police reached the Planning Commission to find about 60 persons under the leadership of Ms. Medha Patkar and under the banner of ACTION 2007 demonstrating, shouting slogans, lying on the ground and demanding expulsion of foreign soft drink companies. They had blocked the entry and exit gates preventing senior government officials from entering or leaving the building. Further, after forcibly entering the main gate, some demonstrators carrying Coca-Cola bottles broke the same under the main porch. In the meantime, police staff from the nearest police station, along with lady police of 103 Bn. RAF reached there and persuaded them to leave the building in order to facilitate normal functioning. However, they paid no heed and again tried to enter the building. They were informed of the promulgation of Section 144 Criminal Procedure Code and that demonstration was prohibited in the area. They were also informed that they could demonstrate at another place, namely the Jantar Mantar. They refused to listen and continued to sit at the main gate of the Planning Commission. Finding no other alternative, the demonstrators were taken into custody. A First Information Report was registered and the Hon'ble Court was requested to detail the Duty Magistrate for judicial proceedings. As per the orders of the High Court, the Duty Magistrate visited the police station. During the judicial proceedings, the counsel of the demonstrators was present. Due to paucity of space they were kept at the Police Station itself and sent to Tihar jail in the morning. The matter was taken up by the Hon'ble Court which ordered the release of all 62 accused persons on bail, which was duly carried out. It must be mentioned that there was no procedural delay. All action was taken as per the procedure of law.

#### **Observations**

1253. The Special Rapporteur wishes to thank the Government of India for the responses transmitted regarding the communications sent on 28 April 2008, 16 May 2008, 23 May 2008 and 24 July 2008. The Special Rapporteur remains concerned however, at the relatively low level of responses compared to the number of communications sent, and urges the Government to increase its effort in transmitting replies to her communications. She considers response to her communications as an important part of the cooperation of Governments with her mandate.

## Indonesia

### Letter of allegations

1254. On 8 September 2008, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations on the killing of Mr. **Opinus Tabuni**, an activist of an indigenous peoples' organisation in West Papua, at a rally on 9 August 2008. According to the information received:

1255. On 9 August 2008, International Day of the World's Indigenous People, a peaceful rally took place through the town of Wamena, in the middle mountain region of West Papua. A march concluded with an event staged near Santa Thomas school in Wamena. Police were stationed around the ground where the event took place. Army and intelligence services were present as well. Only the security forces were carrying guns.

1256. In the course of the event the Morning Star flag, which is a symbol of the West Papua independence movement, was raised. Raising the Morning Star flag reportedly constitutes, under Indonesian law, the offence of subversion and carries a sentence of up to 20 years imprisonment.

1257. At this point, the police started moving in on the demonstrators and started shooting. Mr. Opinus Tabuni, a leader of the Wamena branch of an indigenous peoples' organisation in West Papua, was hit by a bullet and died. An autopsy performed on Mr Tabuni at the hospital in Wamena on 10 August 2008 showed that a bullet travelled through his right side and through his heart. The bullet has been sent by the police to Makassar for further analysis.

1258. Another Papuan man, who was not identified, was reportedly seriously injured by gunshot. This man has disappeared since then. A further man was reportedly beaten by police with rifle butts and has also disappeared. There are concerns that the two men could have been apprehended by the police and may be in police detention.

1259. The Indonesian police are reportedly investigating the incident and have detained a number of witnesses.

### Response from the Government

1260. By a letter dated 28 October 2008, the Government responded to the letter of allegations, indicating that on 9 August 2008, sympathizers to the Dewan Adat Papua/DAP (Papuan Custom Council) cause from the sub-district of VI Lapago Balliem marched from Sinakma Wourma, Pikhe and Wesaput Wamena. They brought with them

traditional defense armaments such as arrows, spears and machetes. They yelled continuously “International Koteka Naire and Independence for Papua”. Their march continued onwards to the conference building on Yos Sudarso Street in the Wamena District of the Papua Province. At 1.45pm, in the public square of Sinapuk, there was a commemoration of the “International Day of the World’s Indigenous People”. The rally was attended by approximately 10,000 sympathizers of the DAP group and they chose to celebrate the event by illegally raising the Morning Star flag, a separatist flag. The sympathizers of this movement then marched together with the leaders of the DAP. At 2.15pm, the participants of the “International Day of the World’s Indigenous People” carried the Morning Star flag side by side with the Indonesian flag, the UN flag and the SOS (emergency) flag on which was written “Papuan are in danger”. Upon seeing the Morning Star flag raised, the county police of Jayawijaya tried to lower and confiscate it. However, there was a strong opposition from the crowds. In order to calm the protestors down, the police officers fired a warning shot in the air and this happened to strike the flag of the DAP sympathizers. Chaos ensued and within 30 minutes, individuals in the crowd started using a gun, arrows, spears and machetes. At 3.30pm, leaders of DAP held a meeting with the head of the county police of Jayawijaya and Dandim 1702, and were informed that the individual(s) who raised the Morning Star flag must be given up to the police officers and thereafter face legal prosecution. At that moment, just as the crowds began to leave the area in order to return home, a man was found dead. He was identified as Mr Opius Tabuni. An investigation into the cause of his death commenced immediately. At 4.45pm, the DAP sympathizers carried the body of Mr Opius Tabuni to the Honai (traditional house) of the DAP Lapago in Mapina. They requested an inquiry into the death of Mr Opius Tabuni.

1261. On 10 August 2008, the autopsy of the body was performed, and it was found that there was a bullet in his heart.

1262. On 13 August 2008, at the Sinapuk Wamena public square, a team from the Indonesian Police Headquarters investigated the third crime scene with regard to the raising of the Bintang Kejora Flag, and the incident which also led to the death of the Mr Opius Tabuni. Another team from the Indonesian Police Headquarters investigated the fourth crime scene at the public square. It was determined that the individuals responsible for the deterioration of the rally included the head of the DAP (Mr Forkorus Yaboisembut) as well as prominent members of the Presidium Dewan Papua (DPD). It was also discovered that the rally was attended by several prominent figures from the contentious 2000 Papuan People’s Congress and this separatist group was ultimately found to be behind the creation of the Presidium Dewan Papua/PDP and other civilian separatist movements in general. The individuals who raised the Morning Star flag have since been identified as having the initials AW and AH. It was also found that these individuals originate from the Piramid village in the Assologaima district. Since then, the following steps have been taken by the regional police of Papua to address this problem: conducting investigations into finding the perpetrators who shot Mr Opius Tabuni; conducting interrogations of the 4 witnesses from the civil society body, 31 members of the county police of Jayawijaya who were on duty and who were supposed to provide security during the rally and 19 members of the county police of Jayawijaya who were

armed during the rally; and conducting “back-up” support from the county police of Jayawijaya and assisted the team of forensic experts from the Indonesian Police Headquarters and the Criminal Investigation Body (Bareskrim).

1263. It is very regretful that the incident took the life of Mr Tabuni and the Government does not take this incident lightly.

### **Urgent appeal**

1264. On 6 November 2008, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal on the following case, which was noted in the report by the Special Rapporteur on Torture to the Human Rights Council on his visit to Indonesia (A/HRC/7/3/Add.7, Appendix I, para. 75):

1265. On 18 October 2007, **Sabar Olif Iwanggin**, assistant lawyer and human rights activist, was arrested in Jayapura by the Anti-Terror Special Force Unit of the National Police (Mabes Polri). Afterwards, he was transferred to Mabes Polri in Jakarta where he was held for interrogation until 1 November 2007. Subsequently he was brought back to Polda Papua. Sabar Olif Iwanggin is accused of forwarding a short-message-service (sms) to his family and his friends defaming the Indonesian President Susilo Bambang Yudhoyono.

1266. Sabar Olif Iwanggin is being tried since 7 January 2008 before the State Court of Jayapura. He is charged for insulting the President, based on articles 134 and 160 of the Indonesian Criminal Code. According to article 134, deliberate insult against the President shall be punished by a maximum prison sentence of six years. Article 160 stipulates that any person who incites in public to commit a punishable act, a violent action against the public authority or any other disobedience shall be punished by a maximum prison sentence of six years or a maximum fine of three hundred rupiahs.

1267. According to the information received, Sabar Olif Iwanggin’s trial has violated the guarantees of the due process of law, as stipulated by Indonesia’s Criminal Procedure Code and international human rights standards.

1268. It is alleged that Sabar Olif Iwanggin was arrested without an arrest warrant and that he was not accompanied by his lawyer during part of the interrogation. Moreover, he would have confessed to committing the offense as a result of psychological pressure exerted by police officers.

1269. It is also alleged that the prosecution presented nine witnesses of whom none was able to testify against Sabar Olif Iwanggin, which led the prosecution to ask for further witness examination, even though both the examination of the witnesses as well as the examination of the defendant had been closed. This would have breached the Indonesian Criminal Procedural Code (article 182).

1270. Furthermore, it is alleged that although the prosecution did not prove that the sms of Sabar Olif Iwanggin lead to anarchic actions in the districts of Yahukimo and Boven Digul where several stores were destroyed and burned down in September 2007, Sabar Olif Iwanggin was charged with violating article 160 of the Penal Code.

1271. Finally, the judges allegedly shouted and blamed the accused during the trial.

### **Observations**

1272. The Special Rapporteur thanks the Government for its response, but regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication of 6 November 2008. She considers response to her communications an important part of the cooperation of Governments with her mandate. She urges the Government to respond to the concerns raised by her, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

1273. The Special Rapporteur expresses concern at the situation of human rights defenders in the West Papua province, and calls on the Government to fully implement the recommendations laid down in the report of the then Special Representative on the situation of human rights defenders on her visit to Indonesia in 2007.

## **Iran (Islamic Republic of)**

### **Letter of allegations**

1274. On 19 December 2007, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women, sent a letter of allegations to the Government concerning Ms **Maryam Hosseinkhah**, Ms **Jelveh Javaheri**, Ms **Hana Abdi**, Ms **Ronak Safazadeh** and Ms **Delaram Ali**, members of the One Million Signatures Campaign, Change for Equality. Ms Hosseinkhah was the subject of an urgent appeal sent by the Special Representative of the Secretary-General on the situation of human rights defenders, as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and as Special Rapporteur on violence against women, its causes and consequences on 30 November 2007. M. Safazadeh was the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the question of torture, Special Rapporteur on violence against women, its causes and consequences and Special Representative of the Secretary-General on the situation of human rights defenders on 17 October 2007.

1275. According to the information received, since the end of October 2007, five members of the Iranian women's rights movement, known as the One Million Signatures Campaign for Equality, had been arrested and charged. Ms. Hosseinkhah and Ms.

Javaheri had both been charged with “inciting of public opinion, propaganda against the state, and publication of false information” for their writings on the website of the One Million Signatures Campaign and were reportedly being held in Evin Prison, in Tehran.

1276. Ms. Abdi and Ms. Safarzadeh, both members of the campaign in the province of Kordestan, had reportedly been detained for several weeks. On 4 November 2007, Ms. Hana Abdi was abducted from her grandfather’s home in Sanandaj, Kurdistan, by seven Ministry of Intelligence agents. After the arrest, the officers confiscated her computer and educational pamphlet related to the campaign. Allegedly, Ms Hana Abdi had been detained in the city of Sanandaj, in the north-western province of Kordestan, and was believed to be held in a Ministry of Intelligence detention facility. She was at risk of torture or other ill-treatment. Ms Abdi’s whereabouts were unknown. Ms Safarzadeh had been allowed only limited contact with her family and no access to her lawyer.

1277. According to the information received, on 4 November 2007, the Tehran Court of Appeal sentenced Ms. Ali, another member of the campaign, to two years and six months imprisonment for participation in an illegal gathering, propaganda against the system, and disturbing public order after she participated in a peaceful rally in Tehran. An order to stay the sentence was issued after a statement issued by leading international human rights organizations, but it has reportedly expired, and the sentence could be implemented at any time. Concern was expressed that the arrest, detention and charges against the aforementioned persons may be related to their peaceful activities in defense of women’s rights. Further concern was expressed at the ongoing harassment of women human rights defenders in the Islamic Republic of Iran.

### **Urgent appeal**

1278. On 21 January 2008, the then Special Representative, together with the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Mr **Emadeddin Baghi**, President of the Society for Defending Prisoners’ Rights, a non-governmental human rights organization founded in 2003, and former editor of Jomhouriat, a daily newspaper, closed by the authorities in July 2004. Mr Baghi’s case was the subject of allegation letters sent on 24 October 2007 by the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and sent on 21 August 2007 by the latter.

1279. According to the new information received, following his arrest and detention on 14 October 2007 in order to impose a previously-suspended one-year sentence, dating from a conviction in 2003, Mr Baghi reportedly suffered a heart attack in prison on 26 December 2007. According to reports, he was briefly hospitalized for emergency treatment, but was then returned to prison, where he was said to be being held incommunicado and in solitary confinement in section 209 of Tehran’s Evin prison. With a view to Mr Emadeddin Baghi’s continuing incommunicado detention in his current state of ill-health, concern was expressed for his physical and psychological integrity.

Further concern was expressed that his detention may be directly related to his human rights activities.

### **Urgent appeal**

1280. On 21 January 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning a group of between 20-30 students, including Ms **Rosa 'Essa'ie**, a student at Tehran's Amir Kabir University, Mr **Mehdi Geraylou**, Ms **Anousheh Azadfar**, and Mr **Rouzbeh Safshekan**; all students at Tehran University, Ms **Ilnaz Jamshidi**, a student at Free University of Central Tehran, Mr **Nasim Soltan-Beigi**, a student at 'Allameh Tabatabai University, Mr **Yaser Pir Hayati**, a student at Shahed University and the students Mr **Milad Moini**, Mr **Younes Mir Hosseini**, Ms **Anahita Hosseini** and Ms **Bitá Naghashiyan**. The aforementioned are all associated with the student groups Students for Freedom and Equality (Daneshjouyan-e Azadi Khah va Beraber Talab) and the Office for Strengthening Unity (Daftar-e Tahkim-e Vahdat).

1281. According to information received, all but two of the 20 to 30 students arrested for participating in demonstrations for the National University Students' Day on 7 December 2007 were still detained without charge. It was reported that Mr Milad Moini and Mr Younes Mir Hosseini had been recently released, but at least nine other students, including Ms Anahita Hosseini and Ms Bitá Naghashiyan, had reportedly been arrested in recent days. The circumstances of their arrest and their current whereabouts remain unknown, although it had been reported that they may have been transferred to Evin Prison in Teheran. Before they were arrested, many of the students reportedly received mobile phone text messages, threatening them with arrest if they participated in the events.

1282. One detained student, whose identity is not known, was reported to have attempted suicide. Unconfirmed information states that pressure exerted by officials and harsh detention conditions may have been factors in this suicide attempt. The Ministry of Intelligence has reportedly suggested that students were in possession of "catapults, sound grenades, alcoholic drinks and misleading books". However, students' groups are said to have dismissed these claims as fabrications. Serious concern was expressed for the physical and mental integrity of those detained. Concern was also expressed that the arrests and detention of all of the aforementioned persons may be directly linked to their activities in defense of human rights, particularly their exercising their rights to freedom of expression and association.

### **Urgent appeal**

1283. On 23 January 2008, the then Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the



question of torture, sent an urgent appeal to the Government concerning Mr **Sa'id Metinpour**, a human rights defender advocating Azerbaijani linguistic and cultural rights in the Islamic Republic of Iran. Mr Metinpour was the subject of a joint urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture, and the Special Representative of the Secretary-General on the situation of human rights defenders on 7 June 2007, following his reported arrest and detention on 25 May 2007, which had regrettably to date remained without a reply from the Government.

1284. According to new information received; Mr Metinpour, who had been in detention for eight months, had had no access to a lawyer. He was transferred to Section 209 of Evin Prison in Tehran on 4 December 2007, where he was permitted his first family visit since his arrest. Before being transferred to Evin prison Mr Metinpour spent 205 days in solitary confinement. He also had objects, such as slippers and jugs, inserted into his mouth by officials. Mr Metinpour was in urgent need of medical attention due to a dermatitis contracted during his detention. He had also reportedly undergone considerable weight- and hair-loss. In light of the reports received, serious concern was expressed for Mr Metinpour's physical and psychological integrity while in detention. Further concern was expressed that Mr Metinpour's arrest and continued detention may be directly linked to his activities in defense of human rights.

### **Urgent appeal**

1285. On 25 January 2008, the then Special Representative, together with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Mr **Mahmoud Salehi**, spokesperson for the Committee to Establish Trade Unions and former president of the Saez Bakery Workers' Union.

1286. According to information received; on 11 December 2007, Mr Mahmoud Salehi was admitted unconscious to Tohid Hospital in Sanandaj, after collapsing repeatedly in prison between 4 and 10 December 2007. Mr Salehi needs dialysis treatment which is unavailable in jail, Despite his critical health condition, Mr. Salehi was brought back to jail. He also suffers from a kidney stone in his one remaining kidney and has grave intestinal oedema or swelling that may be connected with his renal disease. Following his admission to hospital, he received a brain scan, which revealed that blood vessels in his brain have been damaged. His medical condition had therefore become life-threatening.

1287. Since his arrest in April 2007, Mr Salehi's family and lawyer had reportedly been trying to either secure his temporary release on medical grounds, or to transfer him to Saez prison so that his specialist physician would be able to see him. The latter reportedly informed the prison authorities on 31 May 2007 that Mr Salehi cannot receive adequate treatment in prison. On 17 June 2007, Mr Salehi was examined in the Tohid Hospital, and was sent back to prison. Finally, Mr Salehi was denied his right to see his lawyer, and his family could only contact him by phone.

1288. Given his medical condition, serious concern was expressed for the physical and mental integrity of Mr Salehi. Further concern was expressed that his stay in detention may be related to his non-violent activities in defence of human rights, in particular his trade-union activities.

### **Response from the Government**

1289. In a letter dated 4 September 2008, the Government responded to the communication of 25 January 2008. The Government informed that Mr Mahmoud Salehi was charged with action against national security of the country through organizational support for and connection with the terrorist group Koumeleh and was arrested in May 2004 in the city of Saghez. After thorough examination of charges and exhaustion of legal proceedings and court hearing of his defence, he was sentenced to one year imprisonment and two years of probationary imprisonment. During the sentence term and afterwards, he continued his activities and contacts with foreign circles, campaigning against the Islamic Republic of Iran. The pertinent court issued him a temporary arrest warrant which was once reconfirmed, following a request for appeal from his defence lawyer. His case was opened again in branch 1 of the Islamic Revolution Court of Sanandaj city on 3 April 2008, and Mr Salehi was bailed out on 6 April 2008 pending the session of his court.

1290. The Government also noted that the charges against Mr Salehi had no connection whatsoever with the alleged defence of human rights or his trade union activities. His trial was in accordance with the rule of law and merely in relation with his illegal activities. Mr Salehi enjoyed all his legal rights before the court of justice. He enjoyed all facilities as well as the existing medical services offered by medical centers in and out of prison, as available to any other prisoner, and regularly received his prescribed medications. The Government noted that any allegation of maltreatment or lack of proper medical attention to his physical or psychological integrity is baseless.

### **Urgent appeal**

1291. On 5 February 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning the arrest of Mr Behrouz Seferi, Iranian Azerbaijani human rights activist and his wife, Ms Layla Heydari.

1292. According to the information received; Mr. Behrouz Seferi, who had campaigned for Iran's Azerbaijani minority to be given greater rights to use their mother tongue, has been detained without charge or trial since late May or early June 2007. He has not been allowed to consult a lawyer. Mr. Seferi was arrested shortly after demonstrations around the first anniversary of the publication of a cartoon in an Iranian newspaper which many

Iranian Azerbaijanis found offensive. He was held in his home town of Zanjan until 4 December 2007, when, according to sources, he was moved to Evin Prison.

1293. Reportedly, his wife, Ms. Layla Heydari, had been detained since 28 August 2007. According to the information received, Ms. Heydari ran a shop selling Azerbaijani books, music and other cultural material until the authorities closed it down in 2006. She obeyed official warnings not to publicise her husband's arrest, but on 28 August 2007 she was summoned to visit him at the Ministry of Intelligence detention centre where he was held at the time, and was arrested. She too was moved to Evin Prison on 4 December 2007.

1294. Concern was expressed that the arrest and detention of Mr. Seferi and Ms. Heydari may be linked to their peaceful activities in defence of human rights, in particular the cultural rights of the Iran's Azerbaijani minority. Further concern was expressed that they both may have been tortured to obtain confessions. Finally, concern was expressed for their psychological and physical integrity. Ms. Heydari was reportedly in poor health, suffering from heart problems and had been treated on the medical wing, whose staff reportedly recommended that she be allowed medical treatment outside prison.

### **Urgent appeal**

1295. On 13 February 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Mr. **Amin Ghaza'i**, aged 29, writer, chief editor of an electronic journal called "ArtCult", and prominent member of an organisation called "Students for Freedom and Equality" ("Daneshjouyan-e Azadi Khah va Beraber Talab"). Some other student members or affiliates of this group were already been the subject matter of a joint urgent appeal to the Government by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 21 January 2008.

1296. According to the information received; Mr. Amin Ghaza'i was arrested in Tehran on 14 January 2008 at a meeting along with 14 other students. He was currently being held without charge or trial in solitary confinement in Section 209 of Evin Prison in Tehran and had been ill-treated. On 15 January 2008 the police searched Mr. Ghaza'i's home and confiscated his computer and papers. On 30 January 2008, Mr. Ghaza'i was allowed a three minute telephone conversation with his family in the presence of guards, during which he appeared to be intimidated. Apart from this phone call Mr. Ghaza'i had not been allowed access to his family or a lawyer. Mr. Ghaza'i suffers from a peptic ulcer, heart problems, and asthma.

1297. Mr. Ghaza'i has published articles on the internet and written books about gender identity and has translated into the Persian language books on the subject, which are banned in the Islamic Republic of Iran. In view of his reported incommunicado detention concerns were expressed as to Mr. Amin Ghaza'i's physical and mental integrity and his state of health. Further concern was expressed that the arrest and detention of Mr. Amin Ghaza'i might solely be connected to his reportedly peaceful exercise of his rights to freedom of expression and association.

### **Urgent appeal**

1298. On 15 February 2008, the then Special Representative, together with the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Mr **Ya'qub Mehrnehad**, an activist working in defense of the cultural and civil rights of Baluchi peoples in northern Iran. Mr Mehrnehad is a civic activist and the General Secretary of Youth Association of Justice Voice in Zahidan.

1299. According to information received; in early February, Mr Ya'qub Mehrnehad was sentenced to death for an unknown offence, after a trial conducted behind closed doors. His appeal before the Supreme Court had been scheduled for 17 February, depriving him of the minimum 20 days normally given in Iran for preparation of appeals. Mr Ya'qub Mehrnehad was arrested in early May 2007 along with five other members of the association after they attended a meeting in the Provincial Office of Culture and Islamic Guidance. The five other men were later released. Five months after his arrest, Mr Ya'qub Mehrnehad was allowed visits from his lawyer and his family who alleged that he had been tortured, had lost about 15kg and was unable to keep his balance.

1300. His trial reportedly began on 25 December 2007 before a court in Zahedan, in the province of Sistan-Baluchistan. It is unclear if this court operates as a branch of the Revolutionary Court, in which case it would be governed by the General and Revolutionary Court procedure, or if it is operating outside that framework. In June 2006 it was announced that a "special judicial complex for security affairs" had been established and that a recommendation had been made to the Judiciary to establish a branch of the Supreme Court in the complex in order to expedite the judicial proceedings in relevant cases and to reduce the time between the commission of crimes and the implementation of sentences.

1301. Concern was expressed that the arrest and death-sentence recently imposed on Mr Mehrnehad may be a direct result of his activities in defense of human rights, particularly of the civil and cultural rights of the Baluchi people. Grave concern was expressed that the death sentence might be based on evidence obtained under torture in violation of international standards and the fact that he may be in imminent danger of execution.

### **Urgent appeal**

1302. On 22 February 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and

expression and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal regarding the situation of Ms **Raheleh Asgarizadeh** and Ms **Nasim Khosravi**, two members of the One Million Signatures Petition Campaign, which calls for an end to discriminatory laws against women in Iran.

1303. According to the information received, on 14 February 2008, Ms Asgarizadeh and Ms Khosravi were arrested in Daneshjoo Park in Teheran, while collecting signatures in support of the Campaign's petition. They were then taken to Tehran's police station n°129 (Jaami) and later transferred to the security police station number 8 for interrogation. Upon completion of their interrogation, they were transferred to the Vozara detention centre.

1304. On 15 February, Ms Asgarizadeh and Ms Khosravi were charged by the Revolutionary Court with "propaganda against the state". They were then transferred to Evin prison as they were unable to provide the requested bail of \$22,000.

1305. Concern was expressed that the arrest, detention and charging of Ms Asgarizadeh and Ms Khosravi may be linked with their non-violent activities in defense of women's rights in the Islamic Republic of Iran. Further concern was expressed at the campaign of harassment against women human rights activists involved in the One Million Signatures Campaign.

### **Urgent appeal**

1306. On 10 March 2008, the then Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal regarding the arrest of Mr. **Reza Daghestani**, an Azerbaijani rights activist, at his family's house in the city of Oroumiye. Mr Reza Daghestani is the editor of a student newsletter, Chamlibel, published in both Azerbaijani Turkic and Persian and he has written for several other publications; he started a series of Azerbaijani Turkic classes in the town of Naghadeh and established groups to organize peaceful demonstrations in the province of West Azerbaijan in connection with International Mother Tongue Day on 21 February. He was a member of the committee of a campaign group called Urmu Azerbaijan Sesi, which actively supported several would-be candidates from Oroumiye who all were disqualified from standing for the Majles (parliament) elections to be held on 14 March.

1307. According to information received, during Mr. Daghestani's arrest on 21 February 2008, his house was searched and his computer, CDs, papers and books were confiscated, along with printouts of his newsletters. Mr. Daghestani called his family on 22 February 2008, saying he was being held in a detention centre belonging to the Ministry of Intelligence in Oroumiye. Mr. Daghestani has had no access to a lawyer and his family. When his family tried to visit him on 25 February, they were told that visits would not be allowed until at least 10 March. It is feared that Mr. Daghestani may have been tortured

to force him to provide information, as security forces searched his house a second time on 26 February and appeared to know where to find other papers and books.

1308. With a view to his incommunicado detention concern was expressed for Reza Daghestani's physical and mental integrity. Further concern was expressed that his arrest and detention of Mr. Daghestani may be related to his non-violent activities in defense of Azerbaijani rights in the Islamic Republic of Iran.

### **Letter of allegations**

1309. On 11 March 2008, the then Special Representative, together with the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegations in relation to several women human rights defenders in Iran, including Ms **Parvin Ardalan**, a women's rights defender and one of the founding members of the *One Million Signatures Campaign* and Ms **Ehteram Shadfar**, an active member of the movement. The campaign seeks legislative reform in order to achieve greater gender equality.

1310. According to information received, on 19 February 2008, Ms Ehteram Shadfar was reportedly sentenced in absentia to six months suspended imprisonment for "endangering national security" and "propaganda against the State" by branch 13 of the Revolutionary Courts. She had been arrested on 10 June 2007 by the security police from Police Station 104. The sentence is to be suspended for two years, and will not be implemented unless she is found guilty of another crime during this time.

1311. On the morning of 3 March 2008, Ms Parvin Ardalan was due to travel from Tehran to Stockholm. She had passed through passport control and had boarded her flight when security officials prevented the flight from taking off until she had disembarked. Ms Ardalan was reportedly informed by security officials that she had been banned from leaving Iran. The agents then confiscated Ms Ardalan's passport and issued her with a court order which required her to report to the security department of the passport office within 72 hours.

1312. Concern was expressed that the conviction and sentencing of Ms Ehteram Shadfar and the travel ban imposed on Ms Parvin Ardalan may be directly related to their activities in defense of human rights, in particular their work to promote the rights of women in Iran.

### **Urgent appeal**

1313. On 11 April 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences, and the Vice-Chairperson of the Working Group on Arbitrary Detention, sent an urgent appeal regarding Ms **Khadijeh Moghaddam**, a member of the Mother's

Committee of the "One Million Signatures" Petition Campaign, which seeks to abrogate legal provisions that have adverse effects on women's human rights.

1314. According to the information received, Ms. Khadijeh Moghaddam was arrested on 8 April 2008 at about 11:00 a.m. at her house by agents of the police, who forced their way into her home and refused to show her an arrest warrant. Ms. Maghaddam was then transferred to the Eshrat Abad Security Police Station, where she was interrogated during several hours, and, from there, to the Revolutionary Court, where she was interrogated by an Investigative Judge.

1315. During the hearing, Ms. Modghaddam denounced that she had been ill-treated during her arrest. She was accused of hosting political meetings in her house and was asked to identify members of the Petition Campaign who had participated in the meetings. Subsequently, Ms. Moghaddam was charged with "spreading of propaganda against the State"; "disruption of public order" and "actions against national security".

1316. A temporary arrest order was issued against her and the bail for her release was set to 1,000 million Rials. As she declared that she was unable to pay such an excessive amount of money, the Investigative Judge ordered her transfer to prison for a week. Ms. Moghaddam is currently detained at the Vozara Detention Centre.

1317. Concern was expressed that the arrest, detention and charging of Ms. Moghaddam may be linked to her peaceful activities in defense of women's rights.

### **Urgent appeal**

1318. On 15 April 2008, the then Special Representative, together with the Vice-Chairperson of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal regarding **Behrooz Karimizadeh, Peyman Piran, Ali Kantouri** and **Majid Pourmajid**, four students and members of the organisation "*Students Seeking Freedom and Equality*".

1319. According to information received, three of the four students were arrested in December 2007, apparently to prevent demonstrations to commemorate the "Students Day" on 7 December 2007. Behrooz Karimizadeh was arrested on 2 December 2007 by Ministry of Information agents at the house of a friend in Tehran; Peyman Piran was arrested on 4 December 2007 by plainclothes agents from the Ministry of Information as he was leaving Tehran University campus following a peaceful demonstration; and Ali Kantouri was arrested approximately two weeks later in the town of Ghazvin. Behrooz Karimizadeh and Peyman Piran are being detained in Units 209 and 305 in Evin prison in Tehran, and Ali Kantouri is detained in Ghezel Hesare near Tehran. Bail was refused for Mr. Kantouri, and prohibitively high bail was set for Mr. Piran and Karimizadeh.

1320. Majid Pourmajid was arrested on 29 March 2008 in Tabriz; he was hospitalized three days after his arrest and transferred two days later from the hospital to an undisclosed location by the authorities. Since then his whereabouts are not known.

1321. The four students are accused of taking part in "armed activities" and "forming groups against the State". Their lawyers have not yet had access to their clients or their files. The detained students are reportedly being subjected to long periods of solitary confinement and physical and psychological ill-treatment.

1322. Approximately 40 students were arrested since December 2007, and all except these four were later released, some of them alleging that they were ill-treated during their detention.

1323. Concern was expressed that the arrest and detention of Behrooz Karimizadeh, Peyman Piran, Ali Kantouri, and Majid Pourmajid may be linked to their non-violent activities in defense of human rights, in particular in the exercise of their right to freedom of expression and assembly.

### **Urgent appeal**

1324. On 16 April 2008, the then Special Representative, together with the Vice-Chairperson of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding Ms **Rugeyye Leysanli** (or Lisanli), wife of the activist for the rights of Iranian Azeri Turks, Mr Abbas Leysanli, who has been the subject of two joint urgent appeals by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders on 22 June 2006, and by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders on 14 November 2006, respectively. Both of these communications have regrettably remained without a reply from the Government to date.

1325. According to the information received, Ms Rugeyye Leysanli was arrested at her home on 12 April 2008 at around 1:30am without a warrant by members of the Iranian secret police (Ettelaat), who searched the house and confiscated Ms Leysanli's computer. During the arrest and search the officers used force. Her current whereabouts are unknown.

1326. Ms Leysanli had been threatened with arrest by authorities on a number of occasions in connection with her reporting about allegations of ill-treatment of her husband, who is currently serving a prison term in the Yazd province, and it is believed that her arrest was carried out as a deterrent.



1327. In view of her reported incommunicado detention and alleged ill-treatment of her husband while in detention, grave concern was expressed for Ms Leysanli's physical and mental integrity. Further concern is expressed that her arrest and detention may be linked to her reportedly non-violent activities in defense of human rights, in particular her reporting on the alleged ill-treatment of her husband.

### **Urgent appeal**

1328. On 16 April 2008, the then Special Representative, together with the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal regarding the situation of Ms. **Shirin Ebadi**, lawyer and Nobel Peace Prize winner in 2003 for her work promoting women's and children's rights in the Islamic Republic of Iran. Ms. Ebadi was the subject of an urgent appeal sent by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 11 August 2006, an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 4 August 2005, an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders on 13 January 2005 and an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative of the Secretary-General on human rights defenders on 8 December 2003.

1329. According to new information received, on 5 April 2008, Ms. Ebadi received an anonymous letter in her office which read: "Shirin Ebadi, your death is near ... We have warned you many times to watch your tongue, but despite the warnings you are talking. So for the last time correct your behaviour or you will be avenged [sic]." Ms. Ebadi immediately denounced these threats in a letter to the police and recalled that she has been receiving death threats for years. In this document, she stated that she was convinced that the origin of these threats was her activities in favour of human rights.

1330. On 7 April 2008, Ms. Ebadi left Iran temporarily. On 15 April, State media reported that President Mahmoud Ahmadinejad had ordered police to ensure the safety of Ms. Ebadi. Apparently, he also ordered police to conduct an investigation into the case.

1331. Serious concern was expressed that the latest death threats against Ms. Ebadi may be related to her non-violent work in defense of human rights. Further concern was expressed that this new incident may form part of a pattern of intimidation and harassment against human rights defenders in the Islamic Republic of Iran.

### **Urgent appeal**

1332. On 24 April 2008, the then Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding the sentencing to death on appeal of **Abdolwahed (Hiwa) Butimar**, a Kurdish journalist and environmentalist, by Branch No. 1 of the Revolutionary Court in Marivan City in the Province of Kordestan. An urgent appeal was sent on 26 July 2007 on behalf of Hiwa Butimar and his cousin Adnan Hassanpour, a Kurdish journalist and cultural rights activist, by the Special Rapporteur on extrajudicial, summary or arbitrary executions, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Representative of the Secretary-General on the situation of human rights defenders, to which your Government replied on 23 August 2007.

1333. According to the information received, Hiwa Butimar and Adnan Hassanpour were arrested on 23 December 2006 and 25 January 2007 respectively, and reportedly held incommunicado in the Ministry of Intelligence facility in Marivan until 26 March 2007, when they were transferred to Marivan prison. They were tried on 12 June 2007 on charges of espionage and crime of "Moharebeh" (enemy of God) and sentenced to death on 17 July, although information received indicated that the charges were not supported by evidence. They appealed the sentence, and on 23 October 2007 the Supreme Court upheld the death sentence against Adnan Hassanpour, while it overturned the sentence against Hiwa Butimar for procedural irregularities and sent it back to the Marivan Revolutionary Court for re-examination.

1334. According to information received, Hiwa Butimar's death sentence was recently upheld on appeal. It is reported that the case was referred to the same judge on appeal as the first instance judge.

### **Urgent appeal**

1335. On 23 May 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning Ms. **Nashrin Afzali**, Ms. **Nahid Jaafari**, Ms. **Zeynab Peyghambarzadeh**, Ms. **Rezvan Moghadam** and Ms. **Parvin Ardalan**, members of the One Million Signatures Petition Campaign. This Campaign seeks to abrogate legal provisions that have adverse effects on women's human rights.

1336. These women's rights activists, along with other members of the campaign, were the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the

right to freedom of opinion and expression, the Special Rapporteur on violence against women, and the then Special Representative of the Secretary-General on the situation of human rights defenders on 7 March 2007. We regret we have not yet received a response to that communication.

1337. In addition, Ms. Ardalan, along with other members of the campaign, was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, the then Special Representative of the Secretary-General on the situation of human rights defenders, on 16 June 2006. She was also the subject of an allegation letter sent by the Special Rapporteur on violence against women and the then Special Representative of the Secretary-General on the situation of human rights defenders, on 11 March 2008. While we acknowledge receipt of a reply from your Excellency's Government to the communication of 16 June 2006, we regret not yet having received a response to the communication of 11 March 2008.

1338. According to the information received, on 19 April 2008, the 13th Chamber of the Tehran Revolutionary Court sentenced Ms. Nasrin Afzali to six months' suspended imprisonment and ten lashes after having found her guilty of "disruption of public order" for having participated, on 4 March 2007, in a peaceful gathering in front of the Tehran Revolutionary Court to mark International Women's Day. On 21 April 2008, Ms. Nahid Jaafari received the same sentence, on the basis of the same charges. On 29 March 2008, Ms. Zeynab Peyghambarzadeh was sentenced to two years' suspended imprisonment for "acting against national security" by the 16th Chamber of Tehran Revolutionary Court.

1339. On 28 April 2008, Ms. Rezvan Moghadam and Ms. Parvin Ardalan were notified that, subsequent to a hearing that took place on 4 February 2008, the Tehran Revolutionary Court had sentenced Ms. Moghadam to six months' suspended imprisonment and ten lashes and Ms. Ardalan to two years' imprisonment on charges of "acting against national security".

1340. On 4 March 2007, the Iranian authorities arrested at least 31 women's rights activists, including Ms. Afzali, Ms. Jaafari, M. Peyghambarzadeh, Ms. Moghadam and Ms. Ardalan, for staging a peaceful demonstration against the prosecution of six women's rights defenders charged with criminal offences against public order and security for having organized a peaceful demonstration in Haft-e Tir Square of Tehran on 12 June 2006.

1341. Concern was expressed that the sentencing of Ms. Afzali, Ms. Jaafari, Ms. Peyghambarzadeh, Ms. Moghadam and Ms. Ardalan may be directly related to their peaceful activities in defense of women's rights in the Islamic Republic of Iran, in particular within the framework of the One Million Signatures Petition Campaign.

### **Urgent appeal**

1342. On 18 June 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning Mr **Arzhang Davoodi**, an engineer and poet. Mr Davoodi was the subject of urgent appeals sent by several mandate-holders, including the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on torture, the then Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the right to health, on 29 January, 10 and 24 March and 23 August 2004. These appeals, which followed the arrest of Mr Davoodi in October 2003, received responses from Your Excellency's Government on 10 June and 6 October 2004.

1343. According to new information received, on 18 April 2008, Mr Davoodi began a hunger strike in Evin Prison in protest at his detention. Since the beginning of the hunger strike, Mr Davoodi has not received any medical care. Reports indicate that his health has been seriously compromised as a result of torture and ill-treatment while in detention. His eyesight has been seriously affected and he also suffers from pain in his left shoulder and right knee, a burst left eardrum and bleeding gums. Since his initial detention in Evin Prison in 2003 after making statements in a documentary which were critical of the Government, Mr Davoodi has been transferred five times in five years.

1344. On 27 April, Mr Davoodi was again transferred to Gohardasht Prison, reportedly after a warrant bearing no names and signatures was issued. He has reportedly received threats that a case will be fabricated against him and submitted to the court because he is on hunger strike. The nature of the charges against Mr Davoodi, the verdict of the Revolutionary Court and the length of his prison sentence remain unknown.

1345. Concern was expressed that the continued detention of Mr Davoodi may be directly related to his activities in defense of human rights, in particular his exercise of the right to freedom of expression. In view of reports of Mr Davoodi's hunger strike and his ill-health, and the conditions of his detention, serious concern was expressed for his physical and psychological integrity.

### **Letter of allegations**

1346. On 30 June 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations concerning the arrest and detention of **workers of the Haft-Tepéh Sugar** factory during a peaceful protest in the city of Shush, southern Iran.

1347. According to information received, on 26 May 2008, a peaceful gathering attended by thousands of workers from the Haft-Tepéh Sugar factory, was violently dispersed by members of the security forces and riot police, in the southern Iranian city of Shush. The protest had been organised, as part of a series of demonstrations held over a period of 21 days, demanding unpaid wages for the previous three months, and to call for

the resignation of management and representatives of the Intelligence Ministry, as well as an end to the prosecution of many workers who have been detained and put on trial. Twelve workers were reportedly detained during the demonstration by the authorities and have since been released.

1348. According to reports, on 21 May 2008, 26 workers who were planning to join a protest against the detention of five colleagues were arrested. All were subsequently released on bail, however five of them, including Mr Fereydoon Nikoofar, Mr Jalil Ahmadi, Mr Ghorban (Ramezan) Alipour, Mr Mohammad Heidari Mehr, and Mr Ali Nejati reportedly face possible prosecution. In addition, Mr. Abolfazl Abedini Nasr is reportedly under prosecution for covering their protests. Previously, on 8 April 2008, a protest led by workers' families, including women and children, was intercepted by the security forces, allegedly using 20 rounds of tear gas to disperse the crowd, whilst beating protesters with batons. According to reports, many protesters sustained injuries and at least one person was hospitalised.

1349. Concern was expressed that the afore-mentioned incidents may represent a direct attempt to restrict the right to freedom of opinion and expression in Iran.

### **Letter of allegations**

1350. On 30 June 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegations concerning the arrest and detention of the following nine female human rights defenders, including five journalists: Ms **Jila Bani Yaghoub**, an online journalist with the daily *Sarmayeh* and the **Canon Zeman Irani**; Ms **Jelveh Javaheri**, member of the One Million Signatures Campaign and a regular writer for the website of *Change for Equality*; Ms **Aida Saadat**, of the daily *Etemad* and *Change for Equality* website; Ms **Farideh Ghayeb** and Ms **Sara Loghmani**, both journalists for *Canon Zeman Irani*; Ms **Alieh Motalebzadeh**, a journalist and photographer; Ms **Nasrine Satoudeh**, lawyer and women and children's rights activist; and women's rights defenders, Ms **Nahid Mirhaj** and Ms **Nafiseh Azad**.

1351. According to information received, on 12 June 2008, Ms Jila Bani Yaghoub, Ms Jelveh Javaheri, Ms Aida Saadat, Ms Farideh Ghayeb, Ms Sara Loghmani Ms Nasrine Satoudeh, Ms Nahid Miraj, Ms Nafiseh Azad, and Ms Alieh Motalebzadeh were arrested by members of the security forces outside the Rahe Abrisham Gallery in Tehran. The women had gathered to attend a seminar organised to mark the second anniversary of Iran's National Day of Solidarity of Iranian Women (an event which first took place in June 2005). On arrival at the Gallery, organisers of the event found the door to the building locked. They were informed that the seminar had been cancelled by the security forces, a large number of which were reportedly present at the scene. Ms Aida Saadat and Ms Nahid Miraj remained outside the Gallery to inform participants about the cancellation of the seminar, but were arrested at approximately 3.00 p.m. When Ms Nasrine Satoudeh and Ms Jila Baniyaghoub made enquiries about the arrests of their

colleagues, they too were arrested. Ms Nafisah Azad, Ms Jelve Javaheri, Ms Sarah Loghmani, Ms Farideh Ghaeb and Ms Alieh Motalbezadeh were arrested soon afterwards. All were brought to Vozara Detention Centre where they were detained for approximately 8 hours before being released in the early hours of the following morning. The women are currently waiting to hear whether charges are to be brought against them.

1352. On the same day, the police reportedly visited the home of Change for Equality editor Ms Parvin Ardalan. However, she was not in the house at the time and they were unable to arrest her. On 2 May 2008, Ms Parvin Ardalan received a suspended sentence of two years' imprisonment and ten lashings for a period of three years on charges of "illegal gathering and collusion and refusal to obey the orders of the police with the intent of endangering national security". The charges against her are related to her involvement in the organisation of a peaceful demonstration in Hafte Tir Square, Tehran, on 12 June 2006, in protest of discrimination against women.

1353. Concern was expressed that the arrest and detention of the aforementioned nine women human rights defenders may be linked to their non-violent activities in defense of women's rights. Further concern was expressed that the afore-mentioned incidents may represent a direct attempt to restrict the right to freedom of opinion and expression in Iran.

### **Urgent appeal**

1354. On 11 July 2008, the Working Group on arbitrary detention, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal to the Government regarding members of the One Million Signatures Campaign, Ms **Hana Abdi**, Ms **Raheleh Asgarizadeh** and Ms **Nasim Khosravi**. The One Million Signatures Campaign seeks to change discriminatory laws against women and to promote gender equality in Iran. Ms Hana Abdi is also a member of the women's rights NGO Azar Mehr.

1355. Ms Hana Abdi was the subject of a joint allegation letter sent by the then Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women on 19 December 2007. Ms Raheleh Asgarizadeh and Ms Nasim Khosravi were the subjects of a joint urgent appeal sent by the same mandate-holders on 22 February 2008. No response to either correspondence has yet been received from your Government.

1356. According to information received, on 4 July 2008, Ms Hana Abdi began a five-year prison sentence. Her detention started on 4 November 2007, when her computer and pamphlets relating to the One Million Signatures Campaign were also confiscated. The sentence was passed on 18 June 2008 for "gathering and collusion to threaten national security" under Article 610 of the Islamic Penal Code. The sentence was reportedly based on interrogations carried out whilst Ms Hana Abdi was in isolated detention and was not allowed access to her lawyer. During her detention she was reportedly tortured. An

appeal against her sentence was filed by her lawyer. The appeals court had not issued a decision in relation to the appeal.

1357. On 20 July 2008 Ms Raheleh Asgarizadeh and Ms Nasim Khosravi were scheduled to appear in court. They were arrested on 14 February 2008 while collecting signatures as part of the One Million Signatures Campaign. The following day they were charged with “propaganda against the state” and transferred to Evin prison.

1358. Concern was expressed that the prison sentence of Ms Hana Abdi and the trial of Ms Raheleh Asgarizadeh and Ms Nasim Khosravi may be related to their work in the defense of human rights, in particular their work to defend the rights of women in Iran. Concern was also expressed about the allegations of ongoing harassment of women human rights defenders involved in the One Million Signatures Campaign in the Islamic Republic of Iran.

### **Urgent appeal**

1359. On 14 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal regarding Mr. **Mohamad Sadigh Kaboudvand**, journalist and President of the Association for the Defence of Human Rights in Kurdistan. Mr. Kaboudvand was the subject of two urgent appeals sent on 22 September 2006 and on 10 July 2007, for which no response has been received.

1360. According to information received, in late May 2008, Mr. Mohamad Sadigh Kaboudvand was sentenced to eleven years’ imprisonment. A ten-year sentence was issued for “acting against State security” by establishing the Association for the Defence of Human Rights in Kurdistan, and a one-year sentence was added to that for “propaganda against the system”. On 19 May 2008, Mohamad Sadigh suffered a stroke and seriously needed medical attention.

1361. Mr. Mohamad Sadigh Kaboudvand has been in detention since being arrested on 1 July 2007. His home was then searched and property, such as his computer and various documents, was confiscated. In 2006, he was given a suspended prison sentence of one year and was prohibited from working as a journalist for five years because of his work in defence of human rights and articles he had published defending the rights of Kurdish people.

1362. Concern was expressed that the sentencing of Mr Mohamad Sadigh Kaboudvand may be related to his work in the defence of human rights, in particular his work to defend the rights of Kurdish people. In view of the poor health of Mr Mohamad Sadigh Kaboudvand, serious concern was expressed for his physical and psychological integrity. Concern was also expressed by the allegations of ongoing harassment of journalists in the Kurdish region of the Islamic Republic of Iran.

### **Response from the Government**

1363. In a letter dated 4 September 2008, the Government responded to the communications of 14 July 2008 and 10 July 2007. The Government noted that Mr Mohammad Sadegh Kaboudvand has been enjoying all facilities as well as the existing medical services offered by medical centers in and out of prison, as available to any other prisoner. He suffered from high blood pressure and therefore he has been regularly visited and under constant supervision by skilled cardiologists, nephrologists, neurologists and other required specialists. His medical condition is now stable through prescribed medications. Latest medical tests confirmed that Mr Kaboudvand is in stable condition.

1364. The Government further noted that the prison sentence for Mr Kaboudvand has not been in relation with his activities in defence of human rights or any other peaceful activity. Any allegation of maltreatment or lack of proper medical attention to his physical or psychological integrity is baseless. His trial was in accordance with the rule of law and merely in relation with his illegal activities. The allegations in defence of the Kurdish people are not but an instrument to cover his mal-intended activities, and deceiving international human rights bodies. Mr Kaboudvand also enjoyed all his legal rights before the court of justice.

### **Urgent appeal**

1365. On 31 July 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding Mr. **Qulamriza Nejefi**, aged 36; Mr. **Hemid Valai**, aged 27, a university graduate of law and an associate of the Association of Southern Azerbaijani Academics; Mr. **Vedud Esemi**, aged 28, a student reading geology at the Open University in Rasht, former student in the Open University in Ardebil, former Secretary-General of the Islamic Student Society and Director of the students' publication "Seher"; Mr. **Sejjad Radmehr**, aged 26, student of mechanical engineering; Mr. **Aydin Khajei**, aged 23; Mr. **Feraz Zehtab**, aged 23, both students reading law and members of the Islamic Student Society at Tabriz University; Mr. **Dariyush Hatemi**, aged 29, student; and Mr. **Shahrukh Hatemi**, aged 27, dentistry student in Turkey, all of them activists supporting cultural rights of Iranian Azerbaijanis.

1366. According to the information received, the above mentioned persons have been arrested and detained without indictment or trial since 5 June 2008 together with other individuals, whose identities are not yet known. They are being held in incommunicado detention without access to lawyers and have not been allowed visits by their relatives.

1367. Mr. Qulamriza Nejefi was arrested at his workplace in Tabriz on 5 June. One of the charges brought against him relates to a number of student publications issued under licence, which had been found during the searches of his workplace at the time of the



arrest. Security agents, who then searched his home without a court warrant, confiscated his computer, books, CDs and posters.

1368. Mr. Nejefi's family was unaware of his whereabouts for 15 days when it learned that he had been transferred to Tabriz prison, where he is not allowed to receive visits from his relatives. It is believed that the shutting down of Mr. Nejefi's shop at the Rasta Bazaar in Tabriz despite a valid licence was effected by the Ministry of Information's Office in Tabriz.

1369. Mr. Hemid Valai was detained on 15 June 2008 at the Ministry of Information's interrogation unit in Tabriz after he had been summoned there. His current place of detention is unknown. When family members inquired about his whereabouts with Iranian judicial and security authorities they were threatened not to publicise the case.

1370. Mr. Valai has been active in defending and researching ethnic rights. His articles have been published in a host of Azerbaijani student publications as well as in the "Dilmaj", which has recently been banned by Iranian authorities. At the intervention of the Ministry of Information he was barred from membership of the bar of judiciary lawyers, despite fulfilling all professional requirements.

1371. Mr. Vedud Esemi was arrested at his home in Rasht on 22 July 2008 by four security agents who confiscated his computer, CDs, books, handwritings, a photo album, a wedding video tape and a diary. It is feared that Mr. Esemi has been transferred to Section 209 of the Evin Prison in Tehran, however, his family has not been able to establish his exact whereabouts.

1372. It is believed that Mr. Esemi's arrest is attributed to his wedding ceremony, where the colour decorations on his wedding cake coincided with the three colours contained in the national flag of Azerbaijan and where folk songs in Azerbaijani Turkic were sung.

1373. Mr. Esemi had been detained by the Ministry of Information in Tabriz and Ardebil before following his participation in the May 2006 demonstrations. He was released after three months and reportedly ill-treated while in detention.

1374. Mr. Sejjad Radmehr, Mr. Aydin Khajei, and Mr. Feraz Zehtab were arrested by security agents on 17 July at Tabriz University. All have been taken to a location undisclosed by the Iranian authorities and did not reveal their places of detention during one single short phone call they have been allowed to make to their families.

1375. It is believed that the men were arrested in connection with Mr. Radmehr's viva voce of his master thesis. He was only allowed to defend his thesis after staging a "sit-in" protest in the mosque of the University on 11 May 2008 and a hunger strike, and following a signature campaign at Tabriz and Urmiye Universities and the publication of open letters sent to Iranian President Mahmoud Ahmadinejad. Mr. Aydin Khajei and Mr. Feraz Zehtab supported Mr. Radmehr during the sit-in protests and had been banned from the University for one year before.

1376. Mr. Dariyush Hatemi and his brother, Mr. Shahrukh Hatemi, were also arrested by security agents on 17 June 2008 at their home in Tabriz. There is no confirmed information on their whereabouts and the charges brought against them are unknown.

1377. In view of their reported incommunicado detention, grave concerns were expressed as regards the physical and psychological integrity of the above mentioned persons. Further concern was expressed that their arrests and detention might be solely connected to their reportedly peaceful exercise of their right to, in those States in which ethnic, religious or linguistic minorities exist, enjoy their own culture or to use their own language, in community with the other members of their group.

### **Urgent appeal**

1378. On 4 August 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning Mr. **Abdullah Momeni**, a human rights defender, and spokesperson for Advar Tahkim Vahdat (the Alumni Association of Iran), an organization of student groups.

1379. Mr. Abdullah Momeni was the subject of an urgent appeal sent on 12 July 2007 by the then Special Representative of the Secretary-General on the situation of human rights defenders, and by the Special Rapporteur on freedom of expression. No response has yet been received by your government.

1380. According to the information received, on 25 July 2008 Mr. Abdullah Momeni was prevented by members of the intelligence services from travelling to Malaysia, to attend the Asia-Pacific Forum.

1381. Mr. Abdullah Momeni was already prevented in 2007 from travelling to the Massachusetts Institute of Technology.

1382. Concern was expressed that the travel ban imposed on Mr. Abdullah Momeni is directly related to his activities in defence of human rights. Further concern was expressed that the travel ban imposed on Mr. Momeni may form part of measures aimed at restricting the work of human rights defenders in Iran.

### **Urgent appeal**

1383. On 4 August 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding Mr. **Saman Rasoulpour**, a member of an organization called "Human Rights Organization in Kurdistan (HROK)".

1384. According to the information received, on 27 July 2008 Mr. Saman Rasoulpour was arrested in his home in Mahabad, allegedly by agents of the Iranian intelligence services. His current place of detention, as well as the charges brought against him, remain unknown.

1385. Mr. Saman Rasoulpour had organized a peaceful gathering on 26 July in connection with the death sentence imposed upon Mr. Farzad Kamangar.

1386. Concern was expressed about the reported continued incommunicado detention of Mr. Saman Rasoulpour, as this may form part of repressive measures taken in connection with human rights defenders, especially those working on minority issues. Further concern was expressed for the physical and psychological integrity of Mr. Salman Rasoulpour while in detention.

### **Urgent appeal**

1387. 14 August 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal regarding Ms **Shirin Ebadi**, Nobel Peace Prize laureate and lawyer.

1388. According to the new information received, on 8 August 2008, an article was published on the website of the Iranian Republic News Agency (IRNA), entitled “Ebadi bogged down with the Bahai’s”. The article reacts to the fact that Ms Ebadi has undertaken the defence of seven members of the Baha’i community. The article contains allegations such as that human rights are used as means of pressure to impose Western norms to other cultures, and criticizes Ms Ebadi for taking up the defence of homosexuals, Bahai’s and “CIA agents”. The article also refers to the conversion to the Baha’i faith of Ms Nargess Tavassolian, the daughter of Ms Ebadi. Another article, which was published on IRNA’s website, alleged that the reason why Ms Ebadi took up the defence of the seven Baha’i members was in connection with her daughter’s conversion to the faith. On 4 August 2008, the newspaper ‘Kayhan’ also published an article insinuating links between Ms Ebadi, Israel and the Baha’i community.

1389. Concern was expressed that the recent slander campaign may be perceived as incitement to further harassment against Ms Ebadi and her family, especially in conjunction with the death threats against her in April 2008. Further concern was expressed with regard to the physical and psychological integrity of Ms Edabi and her family, as well as her ability to carry out her work.

### **Letter of allegations**

1390. On 18 August 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on extrajudicial, summary or arbitrary execution, sent a letter of allegations

concerning Mr **Ya'qub Mehrnehad**, a journalist and activist working in defense of the cultural and civil rights of Baluchi peoples in northern Iran. Mr Mehrnehad was a civic activist and the General Secretary of the *Youth Association of Justice Voice* in Zahidan.

1391. Mr Ya'qub Mehrnehad had been the subject of a previous urgent appeal, sent on 15 February 2008 by the Special Rapporteur on the question of torture and the then Special Representative of the Secretary-General on the situation of human rights defenders. To date we have not received a reply to that communication from your Government.

1392. According to the new information received, Mr Ya'qub Mehrnehad was executed on 4 August 2008 after his death sentence was approved by the Prosecutor-General of Iran. Mr Mehrnehad was sentenced to death in February 2008, a fact which was confirmed at a press conference by Judiciary spokesman Mr Ali Reza Jamshidi on 19 February 2008.

1393. Mr Ya'qub Mehrnehad was arrested in early May 2007 along with five other members of the association after they attended a meeting in the provincial office of Culture and Islamic Guidance. The five other men were later released. Five months after his arrest, Mr Ya'qub Mehrnehad was allowed visits from his lawyer and his family who alleged that he had been tortured, had lost about 15kg and was unable to keep his balance.

1394. According to the Public and Revolution Prosecutor's Office in Zahedan, Mr Mehrnehad was accused of being a member of Jondallah (also known as the Iranian Peoples' Resistance Movement) and considered having aided Mr Abdolmalek Rigi, the head of a Baluchi armed group. Ya'qub Mehrnehad was charged with Mohareb (enmity with God) and Mofsed fi'l arz (corruption on earth).

1395. Concern was expressed that the arrest, conviction and execution of Mr Mehrnehad may be a direct result of his exercise of freedom of expression in defense of human rights, particularly of the civil and cultural rights of the Baluchi people.

### **Urgent appeal**

1396. On 22 August 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding Mr **Massoud Kordpour**, founding member of the Foundation for Democracy and Human Rights in Iranian Kurdistan, who works on human rights and environmental issues.

1397. According to the information received, on 8 August 2008 Mr Kordpour was arrested in his home, in Boukan. Allegations against him included "espionage for foreign powers", apparently due to interviews he allegedly gave to Kurdish and Farsi language

news sources. His current place of detention as well as the charges brought against him are unknown. He could be being kept in incommunicado detention.

1398. Concern was expressed that the detention of Mr Kordpour at an unknown location may be connected to his activities in defence of human rights and his work on minority issues. Further concern was expressed regarding the physical and mental integrity of Mr Kordpour.

### **Letter of allegations**

1399. On 26 August 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegations concerning Mr **Amir Yaghoub-Ali**, a member of the Men's Committee of the One Million Signatures Campaign which calls for gender equality under Iranian legislation and for amendments to laws that discriminate against women.

1400. According to the information received, on 11 July 2007, Mr Yaghoub-Ali was arrested in Andisheh Park in Tehran while collecting signatures for the One Million Signatures Campaign. He was taken to security police station in the park, and was detained there for 5 days. On 15 July 2007, Mr Yaghoub-Ali was transferred to Evin prison, where he was detained until his release on bail on 8 August 2007. During his detention in Evin prison, he was allegedly interrogated eight times blindfolded, facing a wall, and was harassed several times by the guards. During his detention, he was allowed no contact with his family.

1401. On 25 May 2008, Mr Yaghoub-Ali was convicted by the Revolutionary Court on charges of "endangering national security through spreading propaganda against the state". He was sentenced to one year in prison.

1402. Mr Yaghoub-Ali is currently free on bail, and his sentence is being reviewed by Branch 54 of the Appeals Court.

1403. Concern was expressed that the arrest and detention of, and subsequent court proceedings against Mr Yaghoub-Ali may be solely connected to his peaceful activities in the defence of human rights, in particular his work on gender equality issues.

### **Urgent appeal**

1404. On 26 August 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on violence against women, sent an urgent appeal regarding Ms **Mahboubeh Karami**, a journalist and active member of the Campaign for Equality, a women's rights movement in Iran which calls for reform of laws that discriminate against women, and a member of

the One Million Signatures Campaign in Tehran. Members of the One Million Signatures Campaign have been the subject of previous communications sent to your Government by mandate holders, the most recent of which was sent on the 11 July 2008, on behalf of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences, and the Special Rapporteur on the situation of human rights defenders.

1405. According to information received, on 13 June 2008, Ms Mahboubeh Karami was arrested by plain clothed security officers, who boarded a bus she was travelling on from Tajrish Square near Mellat Park, Tehran. Prior to her arrest Ms Mahboubeh Karami used her cell phone to call her mother to tell her that she was on her way home but that the bus was delayed in traffic. A short time later, Ms Mahboubeh Karami reportedly called her mother again to tell her that she was being forcibly removed from the bus. Her cell phone was then disconnected.

1406. Prior to Ms Mahboubeh Karami's arrest, a demonstration had taken place near Mellat Park in Tehran. The protest had been organised to demonstrate against the arrest, on 11 June 2008, of Mr Abbas Palizdar, a member of Iran's Majlis's (Parliament) Judicial Inquiry and Review Committee, who had apparently accused several senior Iranian officials of financial corruption. According to reports, security forces used tear gas and electric shock batons to disperse the crowd, and check points were also set up by security forces in Vali Asr Street which runs alongside Mellat Park. Several public buses were stopped and boarded by plain clothed officers.

1407. According to reports, on the day Ms Mahboubeh Karami was detained, her family was unable to ascertain her whereabouts despite enquiries made by her brother at Vozara detention centre. The following day, a fellow passenger who had been on the bus with Ms Mahboubeh Karami returned her bag to her family, informing them that all the women on the bus had been removed by security officers, and that seemingly none of them had been involved in any demonstration.

1408. On 14 June 2008, the Head of Tehran's Judiciary reportedly issued a press statement declaring that 200 people had been arrested the previous day and that those who were innocent or were suspected of committing only minor offences would learn about the status of their cases within a week. On 25 June, Ms Mahboubeh Karami's mother received a call from her daughter from Evin Prison saying that she was being held along with 90 other alleged female protesters. On 6 July, Ms Mahboubeh Karami along with nine other women reportedly went on hunger strike to protest about the prison conditions. At that time they were all being held in a section of Evin Prison where detainees are not permitted visits. The protest ended after the other nine women were all released by 25 July. Ms Mahboubeh Karami remained in detention but was moved to a 'general' section of Evin Prison, and has since been allowed weekly visits from her family.

1409. According to reports, Ms Mahboubeh Karami has been charged with "acting against national security," and the Revolutionary Court in Mahabad has scheduled her next hearing for 1 November 2008. Ms Mahboubeh Karami's lawyer has reportedly only recently been allowed to see the court documents concerning her case, and will shortly meet with her for the first time since her arrest. The court set bail of one billion rials (approximately US\$110,000) on 12 July 2008. However, Ms Mahboubeh's family has been unable to raise such a large amount.

1410. Concern was expressed that the aforementioned events may be in relation to Ms. Karami's involvement in the Campaign for Equality and the One Million Signatures Campaign and may represent an attempt to prevent freedom of assembly and expression.

### **Urgent appeal**

1411. On 2 September 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding Mr **Yosef Azizi Bani Turfi**, a journalist and a founding member of Iranian PEN.

1412. According to the information received, Mr Yosef Azizi Bani Turfi was sentenced to 5 years' imprisonment on 20 August 2008. He was charged with "acting against national security", "incitement to rebellion" and "relations with foreign officials". Mr Bani Turfi had been initially arrested on 25 April 2005, and released on bail to await trial on 28 June 2008. Currently he is awaiting appeal.

1413. Mr Yosef Azizi Bani Turfi is the author of several books. He worked as a journalist for the daily "Hamshari" for over 12 years. His persecution allegedly started after he exposed the excessive use of force used during demonstrations against Arab speaking Iranians.

1414. His daughter, Hanan, was banned from postgraduate study at Tehran University.

1415. Concern was expressed that the charges against, and the sentencing of Mr Yosef Azizi Bani Turfi, is connected to his peaceful activities in defence of human rights, especially in the area of the rights of Arab speaking communities in Iran. Further concern was expressed regarding the physical and psychological integrity of Mr Yosef Azizi Bani Turfi and members of his family.

### **Letter of allegations**

1416. On 8 September 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegations concerning Ms **Zeynab Bayzeydi**, a women's rights activist and member of the *Human Rights Organization of Kurdistan*, and the

*Campaign for Equality*, a network of individuals working to end legal discrimination against women.

1417. According to the information received, Ms Bayzeydi had been sentenced to four years' imprisonment and internal exile in Zanjan in August 2008 by the Mahabad Revolutionary Court. This sentence was upheld on 23 August 2008 by an appeal court in West Azerbaijan. Charges against Ms Bayzeydi included "being a member of unauthorized human rights associations" and participating in the Campaign for Equality.

1418. Concern was expressed that the sentencing and imprisonment of Ms Bayzeydi may be solely related to her peaceful activities in defence of human rights.

### **Urgent appeal**

1419. On 9 September 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to the freedom of opinion and expression, and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal to the Government regarding the sentencing of Ms. **Parvin Ardalan**, Ms. **Nahid Keshavarz**, Ms. **Jelveh Javaheri**, and Ms. **Maryam Hosseinkhah**, all members of the One Million Signatures Campaign. Mandate holders have sent several communications regarding members of the One Million Signatures Campaign. For instance, on 7 March 2007, a communication was sent about the arrest of all four of the aforementioned women, together with many other women human rights defenders, following a peaceful gathering. No response has yet been received from the Government.

1420. According to new information received, on 2 September 2008, Ms. Parvin Ardalan, Ms. Nahid Keshavarz, Ms. Jelveh Javaheri, and Ms. Maryam Hosseinkhah were sentenced to six months' imprisonment for "publishing information against the State" after having written articles for Zanestan and Tanir Bary Barbary, two online newspapers which defend women's rights in Iran. Their sentences have since been appealed and they have been released on bail.

1421. Concern was expressed that the sentencing of Ms. Parvin Ardalan, Ms. Nahid Keshavarz, Ms. Jelveh Javaheri, and Ms. Maryam Hosseinkhah may have been related to their work in the defense of women's rights in Iran. Further concern was expressed that this may have formed part of an ongoing trend of harassment against women human rights defenders in Iran.

### **Urgent appeal**

1422. On 20 October 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal regarding Mr. **Adnan Hassanpour**, a journalist, an advocate of cultural rights for the Kurdish people in Iran, and a former member of the editorial board of the



Kurdish-Persian journal, *Aso* (Horizon), which was shut down by the Iranian authorities in August 2005. On 25 August 2008, Mr. Adnan Hassanpour began a hunger strike, with 130 Kurdish prisoners in Iran, in protest against human rights violations such as torture.

1423. Urgent appeals were sent to the Government by various mandate-holders on 26 June 2007, and 24 April 2008, regarding the death sentences given to Mr. Adnan Hassapour and his cousin, Mr. Abdolwahed Butimar, a Kurdish journalist and environmentalist. A response from the Government was received on 23 August 2007.

1424. According to new information received, on 3 September 2008, Branch 32 of the Supreme Court overturned Mr. Adnan Hassanpour's death sentence because the charges on which he had been convicted did not amount to moharebeh (enmity with God). However, he will be retried by Branch 1 of the Revolutionary Court in Marivan, Kordestan, on charges of espionage. Mr. Adnan Hassanpour reportedly confessed under duress to the charges brought against him but retracted his confession.

1425. The Government's response received on 23 August 2007, states that the charges against both Mr. Adnan Hassanpour and Mr. Abdolwahed Butimar are not related to their work as professional journalists. While this is acknowledged and the overturning of Mr. Adnan Hassanpour's death sentence is welcomed, concern is expressed that both his and Mr. Abdolwahed Butimar's work to defend the rights of Kurdish people in Iran is inhibited as long as there are charges against them. Serious concern is also expressed for Mr. Adnan Hassanpour's physical and psychological integrity as well as that of Mr. Abdolwahed Butimar.

### **Urgent appeal**

1426. On 22 October 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, sent an urgent appeal concerning Ms **Negin Sheikholeslami**, a human rights defender and journalist. Ms Sheikholeslami is the founder of the *Azar Mehr Women's Social and Cultural Society of Kurdistan*. She is also associated with the *Human Rights Organization of Kurdistan (HROK)*, which reports on human rights violations committed against ethnic Kurds in Iran.

1427. According to the information received, on 4 October 2008, Ms Negin Sheikholeslami was arrested in her home in Tehran allegedly by members of the Iranian security forces. Her place of detention was not revealed to her husband until 9 October 2008. She is currently being held incommunicado in Section 209 of Evin Prison.

1428. Ms Sheikholeslami underwent heart surgery a month before her arrest, and she is still in need of medical attention. Apart from recovering from the heart surgery, she also suffers from respiratory problems.

1429. Ms Sheikholeslami was previously arrested in February 2001 for having participated in a demonstration in front of the Tehran UN Office, and in January 2002.

1430. Concern was expressed that the arrest and detention of Ms Negin Sheikholeslami may be related to her activities in defence of human rights. Further concern was expressed regarding the physical and psychological integrity of Ms Sheikholeslami.

### **Urgent appeal**

1431. On 24 October 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning regarding the arrest of Ms. Esha Momeni, a member of the One Million Signatures Campaign and the branch of the Campaign for Equality in California, where she is a student.

1432. Various communications have been sent to your Government in relation to members of the One Million Signatures Campaign including Ms. **Ronak Safarzadeh**, Ms. **Hana Abdi** and Ms. **Zeynab Beyezidi**, all of whom are currently in detention.

1433. According to new information received, on 15 October 2008, Ms. Esha Momeni was arrested when driving on the Moddaress Highway in Tehran. Security officials who identified themselves as traffic police told her that she was being arrested for having illegally overtaken another vehicle. She is currently being held in detention in Evin Prison in Tehran although no charges have been brought against her and she is reportedly at risk of torture or ill-treatment.

1434. Ms. Esha Momeni had been in Iran for approximately two months when she was arrested. During that time she visited her family and conducted research for her Master's degree thesis on the Iranian women's movement. Following her arrest she was taken to the home of her family which was searched. Property was confiscated, including Ms. Esha Momeni's computer and material which was to be used for her thesis such as video recordings of interviews with members of the Campaign for Equality in Iran. The officials had a warrant for Ms. Esha Momeni's arrest and court permission to search the home of her family and confiscate property.

1435. Following the search on Ms. Esha Momeni's family home, she was taken to Section 209 of Evin Prison. Her family was not allowed to see her but were told that, if they did not publicize her arrest, she would be released soon. Nevertheless, on 20 October 2008, when Ms. Esha Momeni's family again sought information on her case, they were told by officials of the Revolutionary Court in Tehran that the case was being investigated and that details would not be made public until the investigation was finished. It was only after this that Ms. Esha Momeni's family publicized her arrest.

### **Letter of allegations**

1436. On 12 November 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations concerning Mr. **Abdolfattah Soltani**.

1437. According to new information received, on 23 September 2008, it was brought to the attention of the United Nations Office of the High Commissioner for Human Rights that the candidacy of Messrs. Mohammad Dadkhah and Abdolfattah Soltani, Dr. Hadi Esmailzadeh, and Ms. Fatemeh Gheytrat for the board of Iran's Central Bar Association has been unfairly disqualified. This decision is based on the gozinesh (selection process) regulations, which may reduce equality of opportunity and treatment of candidates according to their opinions or religious beliefs. As well as contravening international human rights treaties to which Iran is party, these measures contravene Article 23 of Iran's Constitution which states that "The investigation of individuals' beliefs is forbidden, and that no one may be molested or taken to task simply for holding a certain belief".

1438. Concern was expressed that the disqualification of Messrs. Mohammad Dadkhah and Abdolfattah Soltani, Dr. Hadi Esmailzadeh, and Ms. Fatemeh Gheytrat as candidates for the board of Iran's Central Bar Association. Further concern was expressed that this may form part of an ongoing trend of harassment against Mr. Abdolfattah Soltani and other members of the Centre for Human Rights Defenders in Iran.

### **Observations**

1439. The Special Rapporteur wishes to thank the Government of the Islamic Republic of Iran for the responses provided to her communications of 25 January 2008 and 14 July 2008. The Special Rapporteur regrets however, that out of thirty-nine communications sent in the reporting period, only two have been answered. From the previous reporting cycle, an additional twenty communications remain unanswered. She considers response to her communications as an important part of the cooperation of Governments with her mandate, and urges the Government to respond to the concerns raised by her.

1440. The Special Rapporteur wishes to reiterate the concerns voiced by her predecessor in the Compilation of developments for the situation of human rights defenders since 2000, i.e. that the legal framework does not ensure the exercise of freedoms essential for the effective defence of human rights. The environment for human rights defenders is particularly affected by the wide scope of official discretion that can be arbitrarily exercised to limit the scope of activities for the defence of human rights. The Special Rapporteur remains concerned about the arrests of defenders for the exercise of their right to freedom of expression or assembly. She wishes to remind the Government of article 6 paragraphs (a) and (b) of the Declaration on human rights defenders "everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to

information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; (b) as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms”. She further recalls article 5 paragraph (a) of the Declaration, which provides that “for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, (a) to meet and assemble peacefully”.

1441. The Special Rapporteur also wishes to underline the challenges faced by women human rights defenders and requests that they be permitted to exercise their rights to freedom of assembly and freedom of expression. She considers that the arrest and detention of the members of the One Million Signatures Campaign may constitute a systematic attempt to curb these rights and urges the Government of the Islamic Republic of Iran to observe women’s right to exercise their freedom to assemble peacefully. The Special Rapporteur issued a press release on 27 November 2008 regarding the participants of the campaign.

1442. In addition, she notes with concern the situation of human rights defenders representing ethnic and linguistic minorities in Iran, and intellectuals and academics whose freedom of expression is curtailed through arrest and detention. She hopes that the Government will in the future be able to readily furnish the legal basis of continuing detentions.

1443. The Special Rapporteur also remains deeply concerned about the situation of Ms Shirin Ebadi and the closure of the Defenders Human Rights Center on 21 December 2008, and the closure of the Center for Clearing Mine Areas on the same day. The arrest of Ms Jinus Sobhani, member and administrative assistant to both NGOs further adds to her concerns. It is feared that these events may form part of an ongoing harassment and intimidation of human rights defenders in Iran.

## Iraq

### Letter of allegations

1444. On 31 March 2008, the then Special Representative of the Secretary-General, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an allegation letter concerning Mr **Shihab Al-Timimi**, a journalist and human rights defender. Mr Al-Timimi was the head of the *Iraqi Journalists' Union* and a renowned campaigner for the right to freedom of expression in Iraq.

1445. According to information received, on 24 February 2008, Mr Shihab Al-Timimi had just left the headquarters of the Iraqi Journalists' Union and was travelling to the Waziriya neighbourhood of north-eastern Baghdad when his car was ambushed by

unidentified armed men who opened fire on the vehicle. Mr Shihab Al-Timimi was taken to hospital where he suffered a stroke as a result of his injuries. He died on 27 February 2008. His son was also injured in the attack, but is now in a stable condition in hospital.

1446. Mr Shihab Al-Timimi had reportedly been the subject of death threats prior to the attack, warning him that he would be killed if he did not retire from his position as head of the Iraqi Journalists' Union.

1447. Grave concern was expressed that the killing of Mr Shihab Al-Timimi may have been as a direct result of his human rights activities, in particular his work to defend the right to freedom of expression in Iraq.

### **Urgent appeal**

1448. On 16 May 2008, the Special Rapporteur, together with the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal regarding a reported gun attack against **ASUDA Organisation for Combating Violence Against Women**.

1449. ASUDA is a non-governmental organisation based in Sulaymaniyah that provides protection to women who are subjected to violence and works to raise awareness on combating violence against women in society. ASUDA's protection shelter has been in operation since 2002 and has supported over 470 women victims of different forms of violence.

1450. According to the information received, on 11 May 2008, at approximately 11 pm, unidentified gunmen opened fire on ASUDA's protection shelter for women. The fire was reportedly opened from an unoccupied house nearby. One of the residents of the shelter, a mother of three, was hit by three bullets and was hospitalised for treatment. ASUDA has been the subject of several threats in the past relating to its work in the defence of women's human rights.

1451. Concern was expressed that ASUDA was targeted because of its legitimate work in defence and promotion of human rights, in particular its work on women's human rights in Iraq. Concern was further expressed for the physical and psychological integrity of all members of ASUDA.

### **Responses from the Government to communications sent earlier:**

#### **Response from the Government**

1452. In letter 4 April 2008, the Government responded to the letter of allegations of 6 November 2007. The Government reported that the Al-Maimounah police station was informed that a body had been thrown onto the main Amarah-Al-Maimounah road. On the same day Mr. Jamal Hasan Mohamed came to the station and filed a report, claiming that the body was that of his brother Ali Sahih Hasan al Saady, a lecturer at Missan

College of Education, who had been abducted from his home in the university district on 4 October 2007 by unidentified persons who had taken him to an unknown location.

1453. The investigation notes were transmitted, by decision of the investigating judge, to the Criminal Investigations Department, which, pursuant to the same decision, asked for the names of the members of the detachment who had been on guard in the university district on the above-mentioned date. By letter No. 4374, dated 16 November 2007, the Department of the Auxiliary Police forwarded the following names: officer Mohamed Karim Haidar, Mohamed Abd al-Reda Hafez, officer Jabar Ni'ma Farih and officer Malik Sabih Hamidy. The investigating judge decided to summon the members of the detachment, in accordance with article 431 of the Criminal Code. The matter was discussed with the Department of the Auxiliary Police, which had been instructed by the Police Department to order the persons concerned to report to the Criminal Investigations Department so that their statements could be taken about the incident. The investigation in this case is still under way.

### **Observations**

1454. The Special Rapporteur wishes to thank the Government of Iraq for the reply transmitted with regard the communication of 6 November 2007. The Special Rapporteur is concerned however, that no replies have been received to the communications transmitted in the reporting year. She considers response to her communications as an important part of the cooperation of Governments with her mandate, and urges the Government to respond to the concerns raised by her.

## **Israel**

### **Letter of allegations**

1455. On 1 February 2008, the then Special Representative sent a letter of allegations to the Government concerning Mr Issa 'Amro, field-worker with B'Tselem (the Israeli Information Center for Human Rights in the Occupied Territories).

1456. According to information received, on 19 January 2008, Mr Issa 'Amro was reportedly filming an alleged disturbance by settlers in Wadi Hsein, East Hebron, with another staff member of B'Tselem when he was ordered by the commander of the Shimshon battalion to stop filming. Mr Issa 'Amro was surrounded by a group of settlers who attempted to take his camera. They were then joined by soldiers who reportedly assaulted Mr Issa 'Amro before arresting him and taking him to an army vehicle where they continued to beat him. It was reported that Mr Issa 'Amro was arrested on suspicion of attacking soldiers, whereas B'Tselem is reportedly in possession of video footage as evidence that Mr Issa 'Amro was attacked by the soldiers.

1457. On 21 January 2008, Mr Issa 'Amro was released. A restriction order was issued against him, prohibiting him from entering the Israeli settlements for fifteen days. On 23

January 2008, the restriction order was cancelled. Concern was expressed that the arrest, detention and physical assault against Mr Issa ‘Amro may be linked to his peaceful activities in defence of human rights.

### **Letter of allegations**

1458. On 28 July 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, sent a letter of allegations to the Government in relation to Mr **Shawan Jabarin**, general director of Al-Haq, a Palestinian human rights organization based in the occupied West Bank. On 16 March 2007, Mr Shawan Jabarin was the subject of a joint urgent appeal sent by the Special Rapporteur on freedom of opinion and expression and the Special Representative of the Secretary General on the situation of human rights defenders. The urgent appeal referred to travel restrictions against Mr Shawan Jabarin imposed on 23 March 2006. No response has yet been received from the Government.

1459. According to information received, on 7 July 2008, the Israeli High Court rejected Mr Shawan Jabarin’s petition to have the travel restrictions against him lifted. Previous petitions filed by Mr Shawan Jabarin against the travel restrictions were rejected in December 2006 and June 2007. With the travel restrictions in place Mr Shawan Jabarin is not permitted to leave the West Bank.

1460. The High Court’s refusal to lift the travel restrictions against Mr Shawan Jabarin was reportedly based on secret information provided by the military and examined ex parte. This information allegedly justified the Israeli High Court’s decision by proving that Mr Shawan Jabarin was a security risk. Given that neither Mr Shawan Jabarin nor his lawyer were able to gain knowledge of why the travel restrictions were in place, it was impossible to defend Mr Shawan Jabarin. Because he could not leave the West Bank, Mr Shawan Jabarin was unable to represent his organization at various events in other countries.

1461. Concern was expressed that no reasons for the travel ban imposed against Mr Shawan Jabarin were given and as a consequence he could not effectively continue his non-violent activities in defence of human rights in the occupied West Bank territory.

### **Response from the Government**

1462. In a letter dated 31 July 2008, the the Permanent Mission of Israel responded to the letter of allegations sent on 28 July 2008, acknowledging its receipt and informing that it had been transferred to the relevant authorities in Israel.

### **Letter of allegations**

1463. On 28 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a

letter of allegations concerning the *Nafha Society for the Defense of Prisoners and Human Rights*, a non-governmental organization (NGO) which was registered with the Palestinian Authority in 2006. The Nafha Society represents Palestinian detainees in Israeli courts, helps prisoners to become reintegrated with society after being released and offers social and psychological support to prisoners' families.

1464. On 2 August 2007, Mr **Mohammad Bsharat**, Executive Director of the Nafha Society was reportedly arrested without a warrant by Israeli soldiers. On 26 August 2007, the Salem Military Court sentenced him to six months' administrative detention. This meant that by law it was neither necessary for charges to be brought against him nor for him to be allowed a trial. He was released on 24 February 2008. This case was the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders on 31 August 2007. No response has yet been received to the communication.

1465. According to information received, on 8 July 2008, the Nafha Society and six other organizations were closed for two years by the Israeli authorities following the issuing of a military order by the Israeli Military Commander in the occupied West Bank. The reason given for the closure was that the organizations were involved in the financing of terrorist organizations. This allegation is strongly denied by the Nafha Society.

1466. Concern was expressed that the closure of the Nafha Society may be related to its work in defense of human rights, in particular its work to provide legal, psychological, medical support to Palestinian prisoners in Israel and their families. Further concern was expressed that these incidents may form part of a pattern of harassment against human rights defenders in the occupied West Bank.

### **Response from the Government**

1467. In a letter dated 31 October 2008, the Government responded to the communication sent on 28 July 2008. The Government reported that the Nafha Society for the Defense of Prisoners and Human Rights substituted and continued the work of the "Friends of the Prisoner Society" (also known as "Ansar El-Sageen"). On 31 August 2006, the Minister of Defense declared the "Friends of the Prisoner Society" to be an unlawful organization based on its connections with the Hamas terrorist organization. This decision stated that the declaration is also valid for any other name in which the organization shall be named in the future, including any section, branch, center, committee, group or fraction of it. As a result, although the organization changed its name, according to the Minister's decision it remains an unlawful organization. Furthermore, according to information presented to the Minister of Defense and the Commander of the IDF forces in the West Bank, the Nafha Society continues to maintain various connections with the Hamas terrorist organization. Due to all of the above and the



threat posed by the Nafha Society for public safety and the security of the State of Israel, the decision remains firm.

### **Letter of allegations**

1468. On 14 August 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning Mr **Yusuf Qawariq**, a field worker for Al-Haq.

1469. According to information received, on 24 July 2008, at approximately 2 p.m., Mr Yusuf Qawariq was arrested by Israeli forces. Mr Yusuf Qawariq had been passing through the Huwara checkpoint on his way out of Nablus in the occupied Palestinian territory of the West Bank. He used his Palestinian identity card and his Al-Haq employee card to identify himself but was accused of using false United Nations (UN) identification because it states on his Al-Haq card that the organization has consultative status with the Economic and Social Council of the UN. Mr Yusuf Qawariq was then detained for three hours in a small cell. Soldiers told the mayor of the village of Awarta that Mr Yusuf Qawariq was carrying false UN identification and that his arrest was due to his work in monitoring and documenting the Israeli military's actions.

1470. Concern was expressed that the arbitrary arrest and detention of Mr Yusuf Qawariq may have been related to his legitimate work in the defense of human rights in the occupied Palestinian territory of the West Bank. Further concern was expressed that this may form part of an ongoing pattern of harassment against human rights defenders in the West Bank, in particular members of Al-Haq.

### **Letter of allegations**

1471. On 5 November 2008, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders sent a letter of allegations to the Government regarding the prevention of approximately 120 international academics and human rights defenders from entering Gaza to attend a conference being held by the **Gaza Community Mental Health Program (GCMHP)** and the **World Health Organization (WHO)**.

1472. According to the information received, on 27 and 28 October 2008, the 5th international conference of the Mental Health Programme, titled "Siege and Mental Health, Walls vs. Bridges" was scheduled to be held by the GCMHP and the WHO in Gaza City. However, Israeli Occupation Forces (IOF) denied entry permits to approximately 120 international academics, human rights defenders and physicians who were due to participate in the conference and prevented them from entering Gaza via Beit Hanoun (Erez checkpoint). Military authorities reportedly also forbade the entry of members of the "Physicians for Human Rights", a Tel-Aviv based NGO; as well as of Palestinian physicians and academics from the West Bank and East Jerusalem. The

names of the participants were reportedly submitted through the WHO to the IOF over a month before the conference in order to allow enough time to gain permission for them to attend.

1473. Concern was expressed that the international academics and human rights defenders who were due to participate in the conference of the GCMHP and the WHO may have been prevented from entering Gaza because of their activities in the defense of human rights. Further concern was expressed that this incident may have formed part of an ongoing pattern of restriction of movement against human rights defenders wishing to enter or leave Gaza.

### **Observations**

1474. The Special Rapporteur wished to thank the Government of Israel for the responses provided to her communications of 28 July 2008 (two communications), but regrets that at the time of the finalization of the report, the Government had not transmitted a reply to her communications of 1 February 2008, 14 August 2008 and 5 November 2008. She considers response to her communications as an important part of the cooperation of Governments with her mandate, and urges the Government to respond to the concerns raised by her. She urges the Government to transmit replies to her communications, including substantive information regarding the case of Mr Shawan Jabarin.

## **Japan**

### **Urgent appeal**

1475. On 14 May 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal regarding Mr. **Tashi Tsering**, aged 38. Mr. Tashi Tsering is the Vice-Chairman of the Taiwan branch of the Tibetan Youth Congress.

1476. According to the information received, on 26 April 2008, the day the Beijing Olympic torch was brought to Japan, Mr. Tashi Tsering was participating in a reportedly peaceful demonstration in Nagano against the Olympic torch relay. During the demonstration, Mr. Tashi Tsering was taken into custody by the Nagano police authorities. Mr. Tashi Tsering had reportedly not committed any violent acts during the demonstration. Before he was arrested, he had been calling for the independence of the Tibet Autonomous Region by approaching the torch and shouting, "Free Tibet!". Mr. Tashi Tsering was charged with "forcible obstruction of business". While in detention, Mr. Tashi Tsering allegedly did not have access to a lawyer during the first days, nor was he allowed to receive visitors.

1477. On 28 April, Mr. Tashi Tsering was brought before a prosecutor for interrogation. Thereafter, his detention was extended for another 10 days and he was once again not permitted to see any visitors during this extended detention period. On 8 May, another 10-day extension of Mr. Tashi Tsering's period of detention was sought, allegedly to gather evidence against him to show that he is a terrorist.

1478. Mr. Tashi Tsering is currently detained at Nagano's central police station. His indictment is reportedly scheduled for 15 May and the court hearing on his case is due to take place on 17 May. If found guilty, Mr. Tsering may be sentenced to a fine of 500,000 Japanese yen (around US\$4,800) or to a prison sentence of up to 3 years.

1479. Concerns were expressed that the detention of Mr. Tashi Tsering might be solely connected to his peaceful activities in defending human rights and the exercise of his right to freedom of opinion and expression.

### **Response from the Government**

1480. In a letter dated 28 May 2008, the Government responded to the communication sent on 14 May 2008. The Government stressed that it guaranteed freedom of assembly and association, as well as speech, press and all other forms of expression as major rights (Article 21 of the Constitution of Japan). The case referred to in the communication includes an action that went beyond the limits of the freedom and it was dealt with by the concerned authorities under appropriate legal procedures. The Government of Japan has no intention to restrict the freedom arbitrarily.

1481. The detailed facts of the case are summarized as follows. On 26 April 2008, when the Beijing Olympic Torch Relay, co-organized by the Beijing Organizing Committee for the Games of the XXIX Olympiad and the City of Nagano, was under way in the city, Mr Tashi Tsering, the accused, jumped out towards the running course shouting "Free Tibet" for the purpose of interfering this event, and as a result, prevented a runner from running forward. As it obstructed the business of the Organizing Committee and Nagano City by force, his action constituted "forcible obstruction of business", which is stipulated under Article 234 of the Penal Code. On 26 April 2008, at 9-06 am, the police arrested Mr Tshering on the spot as a flagrant offender and detained him in a detention cell. On 27 April 2008 the police referred the case to the public prosecutor. On 28 April 2008 the public prosecutor requested Mr Tshering to be detained for 10 days and it was authorized by the judge after the direct judicial inquiry. On 7 May 2008 the prosecutor requested the extension of the period of detention for another 10 days, and it was authorized by the judge.

1482. Mr Tshering was interviewed by a defense counsel 13 times between 28 April and 14 May 2008. He also had an interview with a staff from the Taipei Economic and Cultural Representative Office in Japan.

1483. On 16 May 2008 Mr Tshering was fined 500.000 yen as a summary order, which he paid on the same day. He was released at 2.25 pm on 16 May 2008.

1484. The reply of the Government also contained a detailed analysis of the relevant provisions of the Penal Code and the Code of Criminal Procedure.

### **Observations**

1485. The Special Rapporteur wishes to thank the Government of Japan for the reply it has provided regarding the communication of 14 May 2008.

## **Kenya**

### **Urgent appeal**

1486. On 15 January 2008, the then Special Representative sent an urgent appeal to the Government concerning Mr **Maina Kiai**, Chairperson of the Kenyan National Commission on Human Rights, an independent government body established under the UN Paris Principles on National Human Rights Institutions, where he has set new standards for African national human rights institutions in terms of independence and credibility.

1487. Prior to his current functions, Mr Maina Kiai was nominated in November 2004, and accepted, to sit in the Steering Committee of the African Policing Civilian Oversight Forum (APCOF), which comprises national police oversight and human rights institutions in Africa, as a way to foster more accountability from the police forces in Africa. Mr Maina Kiai was also the Director of Africa Programs at the International Human Rights Law Group (now Global Rights) based in Washington DC from July 2001; served as Africa Director at the International Secretariat of Amnesty International (AI) in London, UK from 1999 to 2001 and was the founding Executive Director of the nongovernmental Kenya Human Rights Commission (one of Kenya's leading NGOs), where he served from September 1992 to September 1998.

1488. According to information received, following the recent disputed presidential elections, the life of Mr Maina Kiai was believed to be at risk. On 7 January 2008, members of the security forces were reportedly instructed to target Mr Maina Kiai who was placed under surveillance the following day. Mr Maina Kiai had reportedly openly questioned the validity of the results of the elections. He had publicly called on President Mwai Kibaki to step down, called for an end to the post-election violence and a negotiated settlement to the present impasse. Concern was expressed that the threats against Mr Maina Kiai may be directly linked to his work in defence of human rights and his criticism of recent electoral practices in Kenya. Further concern was expressed for the physical and psychological integrity of Mr Maina Kiai.

### **Urgent appeal**

1489. On 23 January 2008, the then Special Representative sent an urgent appeal to the Government concerning members of the **Kenans for Peace with Truth and Justice Initiative (KPTJ)**, a coalition of independent non-governmental organizations formed in the aftermath of the immediate past general elections to denounce electoral frauds and to support freedom of expression and association in the country, as well as Mr **Wafula Buke** and Mr **Okoiti Omtata**. Mr Wafula Buke was a human rights officer with the Kenyan National Human Rights Commission from 1995 to 1999 and is still an active human rights defender. Mr Okoiti Omtata is a publisher and columnist with Nation Newspaper.

1490. According to information received, on 8 January 2007, members of KPTJ were reportedly warned by reliable sources within the Kenyan Police Force and the National Security Intelligence Service that a special unit had been established to consider “methods of neutralization” of KPTJ, and that they had to be cautious when driving at night. On 16 January 2008, Mr Wafula Buke was reportedly participating in a demonstration in Nairobi when he was arrested and detained in Bungoma Police Station on charges of ‘causing a disturbance’, before being released on bail later that day. He reportedly appeared in court on 17 January 2008, where charges against him were dropped, although according to reports, he is being followed by unknown men.

1491. On 17 January 2008, Mr Okoiti Omtata was arrested when he chained himself to the railings of the police headquarters in Nairobi, as part of a demonstration by civil society activists in protest at extrajudicial killings allegedly committed by members of the police. Okoiti Omtata reportedly sent friends a phone text message stating that he had been taken to Central Police Station; however police had not recorded his arrest and detention and reportedly deny that he was currently being held there. Okoiti Omtata's phone was later confiscated by police. Okoiti Omtata appeared in court on 19 January 2008 and was charged with ‘causing a disturbance’, and was reportedly still detained.

1492. Concern was expressed that the threats against the members of KPTJ and the arrest and detention of the aforementioned may be directly related to their activities in defence of human rights. Further concern was expressed for the physical and psychological integrity of Mr Okoiti Omtata while in detention.

### **Urgent appeal**

1493. On 31 January 2008, the then Special Representative sent an urgent appeal to the Government concerning Mr **Muthoni Wanyeki**, Executive Director of Kenya Human Rights Commission, Mr **Haroun Ndubi**, human rights lawyer, member of Kenya Domestic Observers Forum, Mr **David Ndi**, author of report on electoral irregularities, Ms Gladwell **Otieno**, Director of Africa Centre for Open Government, Mr **Ndung'u Wainaina**, staff member of National Convention Executive Council, Ms **Njeri Kabeberi**, Executive Director of the Centre for Multi-Party Democracy, Mr Nahashon **Gachehe**, employee of Independent Medico-Legal Unit, and Mr **James Maina**, member of the People's Parliament (Bunge La Mwananchi).

1494. According to information received, in previous weeks, the aforementioned persons had reportedly received a series of anonymous threats, including death threats, through SMS messages, telephone calls and emails. As a result, they had decided to flee their house or to refrain from making further public statements. These threats were in response to statements or actions by the aforementioned persons about irregularities in the results of the Kenyan General Election held on 27 December 2007, or about human rights abuses committed by the police and armed gangs throughout the country following the results. All except one of these persons were of Kikuyu ethnicity, the ethnic group largely perceived to have supported President Kibaki, and have consequently been accused of being “traitors” to their ethnicity. Four of the aforementioned persons were also named in an anonymously authored pamphlet that had been circulating within the Kikuyu community by print and email in recent days. The pamphlet listed them together with more than 25 people of Kikuyu origin who are called “traitors (who) live among us in peace” and should be killed.

1495. Serious concern was expressed that the threats against the aforementioned persons may be linked to their non-violent activities in defence of human rights. Further concern was expressed for their psychological and physical integrity.

### **Urgent appeal**

1496. On 26 February 2008, the then Special Representative sent an urgent appeal on the situation of Prof **Wangari Maathai**, a human rights defender and former member of the Kenyan parliament. According to information received:

1497. On 19 February 2008, Prof Maathai received a text message on her mobile phone which read, "Because of your opposing the government at all times, Prof Wangari Maathai, we have decided to look for your head very soon, you are number three after Were, take care of your life." The message referred to MP Melitus Mugabe Were, who was killed on 29 January 2008. A second MP, David Kimutai Too, was killed in Eldoret town on 31 January.

1498. Reports indicate that two people employed by Prof Maathai received similar threats on 19 and 21 February. The threats were reportedly signed "Mungiki", an outlawed gang, which has claimed responsibility for beheadings and other murders involving mutilation. Prof Maathai's police bodyguard was reportedly removed after she won the Nobel Peace Prize in 2004.

1499. Concern was expressed that the threats made against Prof Maathai may be directly related to activities in defense of human rights and her exercising the right to freedom of expression. As such these threats may have come in response to the Professor's calls on both President Kibaki and opposition leader Raila Odinga to reach an agreement to end the political crisis in Kenya. Serious concern was expressed for the physical and psychological integrity of Prof. Wangari Maathai. The Special Representative further reiterated her grave concern regarding the increased risks faced by human rights defenders in Kenya in recent times.

## **Urgent appeal**

1500. On 22 May 2008, the Special Rapporteur, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal on the situation of Mr **Job Wandalia Bwonya**, Executive Director of the non-governmental organization Western Kenya Human Rights Watch (WKHRW), Mr **Taiga Wanyania**, member of the Mwatikho Torture Survivors' Organization, located in Bungoma, Western Kenya, and accredited with the International Rehabilitation Council for Torture Victims, as well as Mr **Henry Wilberforce Lumbuku**, human rights activist. According to the information received:

1501. Messrs Job Wandalia Bwonya, Taiga Wanyania and Henry Wilberforce have been forced to flee their office in Bungoma and find refuge in another country after exposing in the media alleged acts of torture of Sabaot Land Defence Force (SLDF) suspects by the military in the Mt. Elgon region. Atrocities committed allegedly by SLDF against the civilian population since 2006, with a peak of human rights violations in January 2008, triggered the deployment of soldiers in the area on 10 March 2008. Three days after the start of the military operation, WKHRW started receiving complaints from people from the area, allegedly arrested by the military, including children aged 13, who had been taken to Kapkota military camp, tortured, released or taken to court. A number of people were reported killed in the course of the operation, and over 18 people died as a result of torture, including five in prison.

1502. From 14 to 25 March 2008, WKHRW conducted a fact-finding mission to investigate the allegations received, and to identify other victims who had not filed official complaints yet. On 21 March, WKHRW visited victims at Bungoma prison who had multiple injuries allegedly inflicted by the military at Kaptoka camp before being handed over to the police for prosecution.

1503. On 28 March, Mr Job Wandalia Bwonya went to Sirisia and Lwakhakha to interview more victims. The military arrested Mr Job Wandalia Bwonya at noon at Lwandanyi market in Bungoma West District. He was interrogated for one hour on his activities, and then taken to the Chepkube military camp and further interrogated for three hours before being released. The military reportedly warned Mr Job Wandalia Bwonya to stop alleging that soldiers were torturing people.

1504. On 29 March, 33 alleged victims of torture were transported to Bungoma to deliver testimonies regarding their treatment in Kapkota camp, in the presence of the media. On 30 March and 1 April, the stories of these alleged victims were highlighted in both print and electronic media. A joint press release by Human Rights Watch, Mwatikho and WKHRW was issued on 4 April.

1505. On 4 April, soldiers visited several staff of WKHRW, asking about the whereabouts of Mr Job Wandalia Bwonya. Hearing that the military was actively looking

for him, he decided to flee the country. Soldiers also went to the house of Mr Taiga Wanyania's parents. Mr Taiga was not present and decided to flee the country as well.

1506. On 16 April, Mr Henry Wilberforce Lumbuku, who was also active in interrogating victims of torture, was arrested by the military, interrogated on his activities, and detained in Nakuru barracks for two days. He subsequently left the country as well.

1507. Serious concern was expressed that the abovementioned acts of harassment against Messrs Job Wandalia Bwonya, Taiga Wanyania and Henry Wilberforce Lumbuku may be linked to their non-violent activities in defense of human rights, in particular in investigating and exposing alleged human rights violations by the military in the Mt. Elgon region.

### **Urgent appeal**

1508. On 15 August 2008, the Special Rapporteur, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal on the situation of Dr. **Walter Wekesa Nalianya**, a registered doctor with the Medical Practitioners and Dentist Board practising at Moi Teaching and Referral Hospital. Dr. Walter Wekesa Nalianya has examined torture cases on behalf of the Kenyan Independent Medico-Legal Unit, a registered NGO defending the rights of torture victims in Kenya. According to the information received:

1509. On 14 August 2008, Dr. Walter Wekesa Nalianya was reportedly summoned by police. Since then he has been held for interrogation at the Kakamega's Provincial Criminal Investigation Office for his participation in documenting human rights violations in Mt. Elgon Hospital Kitale in relation to alleged acts of torture committed by the military in the Mt. Elgon region in March 2008. The findings of Dr. Walter Wekesa Nalianya were published by the Kenya National Commission on Human Rights in May 2008.

1510. Concern is expressed that the summoning and interrogation of Dr. Walter Wekesa Nalianya may be linked to his non-violent activities in defense of human rights, i.e. his participation in documenting torture cases in the Mt. Elgon region. On 22 May 2008, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders sent a joint urgent appeal on reported acts of harassment against Messrs Job Wandalia Bwonya, Taiga Wanyania and Henry Wilberforce Lumbuku who investigated and exposed similar human rights violations by the military in the Mt. Elgon region. So far no response from the Government of Your Excellency has been received on these allegations.

### **Urgent appeal**



1511. On 19 September 2008, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal to the Government regarding acts of intimidation against Ms. **Pouline Kimani**, a member of the Gay and Lesbian Coalition of Kenya.

1512. According to information received, on 23 August 2008, Ms. Pouline Kimani appeared on a television program which dealt with the issue of homosexuality in Kenya. On 25 August 2008, she was the victim of intimidation by a group of men in her community, while on 1 September 2008 she was chased and threatened with rape by a group of men. On 2 September 2008, she received threats in an envelope which was found outside her place of residence. These incidents were reported to the police by Ms. Pouline Kimani but she is unaware of whether there has been any investigation into them yet.

1513. Concern was expressed that the acts of intimidation against Ms. Pouline Kimani may have been related to her activities in defense of the rights of the gay and lesbian community in Kenya. Further concern was expressed for the physical and psychological integrity of Ms. Pouline Kimani.

### **Observations**

1514. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications of 6 July 2005, 27 July 2005, 17 September 2007, 15 January 2008, 23 January 2008, 31 January 2008, 26 February 2008, 22 May 2008, 15 August 2008 and 19 September 2008. She considers response to her communications an important part of the cooperation of Governments with her mandate. She urges the Government to respond to the concerns raised by her, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

1515. The Special Rapporteur is particularly concerned about the situation of human rights defenders who have documented human rights violations in the Mt. Elgon region. She urges the authorities to create a safe environment conducive to the work of all defenders.

## **Korea (Republic of)**

### **Letter of allegations**

1516. On 18 January 2008, the then Special Representative sent a letter of allegations concerning Kajiman **Khapung**, **Raju Kumar Gurung** and **Abul Basher M. Moniruzzaman (Masum)**. The three men are, respectively, President, Vice-President and General-Secretary of the *Migrant Workers' Trade Union (MTU)*, an affiliate of the *Korean Confederation of Trade Unions (KCTU)*.

1517. According to information received, on 27 November 2007, the aforementioned were allegedly arrested as they were on their way to a protest in front of the Seoul Immigration Office. Mr. Raju was reportedly arrested by four immigration officers in front of the factory where he worked.

1518. The men, who were allegedly arrested for being in an irregular or undocumented situation, were reportedly sent to a detention center in Northern Choongjeong Province. On 13 December 2007, they were reportedly deported to their native countries (Nepal and Bangladesh). These latest events follow the arrests over 20 member of the MTU since August 2007.

1519. Concern was expressed that the arrest and subsequent deportation of the aforementioned may be directly related to their work in defence of human rights, particularly their proposed campaign against reform of immigration law in the Republic of Korea. Further concern was expressed that the aforementioned may face repression in their home countries, in light of the detention and investigation of former MTU President Mr Anwar Hossain for 'anti-Korean and anti-government activities' upon his return to Bangladesh earlier this year.

### **Urgent appeal**

1520. On 16 May 2008, the Special Rapporteur, together with the Special Rapporteur on the human rights of migrants, sent an urgent appeal concerning Mr. **Torna Limbu** (Nepalese) and Mr. **Abdus Sabur** (Bangladeshi). Mr. Torna Limbu and Mr. Abdus Sabur are founders of the Seoul-Gyeonggi-Incheon Migrants Trade Union (MTU), a union working for the human rights and labor rights of migrant workers regardless of visa status. Mr. Torna Limbu is serving as President in the union, and Mr. Abdus Sabur as the Vice President. Both have been active in the movement for migrant workers' human and labor rights in the Republic of South Korea for several years; Mr. Torna Limbu since 2003 and Mr. Abdus Sabur since 2002.

1521. According to the information received, on 2 May 2008, Mr. Torna Limbu and Mr. Abdus Sabur were arrested and detained at Cheongju Detention Center. It has been reported that both men in fact face imminent deportation.

1522. At approximately 8:20 pm on 2 May 2008, Mr. Torna Limbu and MTU's vice General-Secretary were walking out of the MTU office in Yegwan-dong (Seoul) when they were confronted by 10 to 15 immigration officers. The officers surrounded Mr. Torna Limbu and forced him into a van waiting nearby. They twisted Mr. Torna Limbu's arms behind his back which aggravated a ruptured disk in his neck and caused acute pain in his shoulder and arm. He was also kicked in the shin by one officer. In the van the migration officers presented a detention order to Mr. Torna Limbu.

1523. At approximately 9:00 pm Mr. Abdus Sabur was arrested at his home by 10 migration officers. Mr. Torna Limbu and Mr. Abdus Sabur were detained at Cheongju Foreigners' Detention Center that same night.

1524. The two men had access to a lawyer the day after they were detained. Objections to their detention and the deportation orders against them have been filed, but both Mr. Torna Limbu and Mr. Abdus Sabur have been told by the Director of the Seoul Immigration Authorities that they may be deported at any time. A lawsuit seeking cancellation of the detention and deportation order has been submitted to the competent court on 9 May 2008.

1525. On 27 November 2007, the former president, Vice President and General Secretary, respectively, of MTU were arrested in the same manner and later deported on 13 December 2007.

1526. Concern was expressed that the arrest and detention of Mr. Torna Limbu and Mr. Abdus Sabur represent an attempt by the authorities to prevent Mr. Torna Limbu and Mr. Abdus Sabur from carrying out peaceful activities in the defense of human rights, in particular labor rights. Concern was further expressed that these incidents may constitute a trend to attempt to deter migrants from peacefully exercising their legitimate right to freedom of association, including the right to form and join trade unions.

### **Urgent appeal**

1527. On 10 July 2008, the Special Representative, together with the Special Representative on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government regarding the candlelight protests and pro-democracy non-governmental organizations (NGOs): the **People's Solidarity for Participatory Democracy (PSPD)**, the **Korea Alliance for Progressive Movement (KAPM)**, and the **People's Solidarity for Korean Progress (PSKP)**.

1528. According to information received, on 24 May 2008, candlelight vigils began against the Government's decision to resume beef imports from the United States of America, amid public concerns related to health and food-safety. After this date up to 993 demonstrators were arrested or taken to police stations, whilst certain NGOs involved in the protests had their offices raided, their property confiscated and some of their members arrested. Charges against detainees reportedly included violations of the Law on Assembly and Demonstration, as well as in relation to obstruction of the police, and defamation and physical assault.

1529. The protests took place every night in major cities across the Republic of Korea. They started as a way of demanding renegotiations with the United States of America on importing beef to the Republic of Korea. However, concerns were also expressed about the privatization of public services and healthcare, as well as the ban on assembly and the overuse of force by the riot police. There were several complaints on the use of violence by riot police and violations of the right to assemble during the candlelight vigil.

Members of the National Human Rights Commission of Korea (NHRCK), who were on monitoring duty during the vigils, were reportedly attacked by military police. Approximately 400 demonstrators were injured in the protests, and police stated that any future protests would be blocked.

1530. On 30 June 2008, the offices of the PSPD, the KAPM and the PSKP were raided by the Seoul Metropolitan Police. The PSPD is host to the secretariat of the People's Conference against Mad Cow Disease. The KAPM offices were raided by 50 police investigators who confiscated three computers as well as fire extinguishers and other protest equipment. The PSKP had 23 computers, documents and rally placards confiscated. Police arrested PSKP director Mr Hwang Sun-won, as well as members Mr Ahn Jin-geoul and Ms Yoon Hee-suk. They were detained on charges of leading the illegal protests and violating the Law on Assembly and Demonstration.

1531. Concern was expressed that the arrests and the use of police violence against demonstrators in the candlelight protests, the raids on the offices of the PSPD, the KAPM and the PSKP, and the arrests of Mr Hwang Sun-won, Mr Ahn Jin-geoul and Ms Yoon Hee-suk may be directly related to their non-violent activities in the defense of human rights. In view of the events outlined above, concern was expressed for the physical and psychological integrity of demonstrators in the candlelit protests as well as members of the PSPD, the KAPM and the PSKP.

### **Response from the Government**

1532. In a letter dated 15 October 2008, the Government responded to the letter of allegations sent on 10 July 2008. The Government indicated that the four NGOs mentioned in the letter alleged that the Government restricted their right to freedom of opinion and expression and to freedom of assembly and demonstration during the candlelight demonstrations. Their allegations are based on incorrect and misleading facts. The Government protects the right to freedom of opinion and expression and the right to freedom of lawful and peaceful assembly and demonstration. In order to protect public order and the rights of other citizens, however, a minimum of measures against unlawful violent demonstrations as well as abusive exercise of the right to freedom of opinion and expression are necessary in accordance with international human rights laws and domestic laws. Articles 19(3) and 22 of the International Covenant on Civil and Political Rights prescribe that the exercise of rights may be subject to certain restriction for respect of the rights or reputation of others and for the protection of public order.

### **Letter of allegations**

1533. On 28 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture sent a letter of allegations to the Government concerning the candlelit protests and the following human rights defenders and lawyers: Ms **Jae-Jung Lee**, Ms **Young-Gu Kang**, Mr **Joon-Hyeong**, Ms **Jae-Jeong Lee** and Mr **Gwang-Joong Kim**, all members of Lawyers for a Democratic Society

(MINBYUN); Mr. **Jin-Geol Ahn**, a member of People's Solidarity for Participatory Democracy and a team manager with the People's Association for Measures against Mad Cow Disease (an organization made up of 1700 south Korean NGO's); Ms **Hee Sook Yoon**, Vice-Chairperson of the Korea Youth Movement Council and Ms **Nae Rae Lee**, a 21 year old student.

1534. The candlelit protests, along with human rights organisations People's Solidarity for Participatory Democracy (PSPD), the Korea Alliance for Progressive Movement (KAPM) and the People's Solidarity for Korean Progress (PSKP) were the subject of an allegation letter sent by the Special Representative on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 10 July 2008.

1535. In May 2008, candlelit vigils began against the Government's decision to resume US beef imports, amid public concerns related to health and food-safety. Since they began, the protests have taken place every night in major cities across South Korea. The protest movement, which started as a way of demanding renegotiations with the US on importing beef to the Republic of South Korea, has since become a stage for a broad range of political grievances, from high fuel prices to health care privatisation and the cost of education.

1536. According to new information received, on 4 May 2008, after the first two candlelit protests took place, the Seoul Metropolitan Police Agency reportedly announced that those involved in posting articles on websites related to the protests would be summoned for questioning and that countermeasures would be taken to prevent future demonstrations. On 22 July, Justice Minister Kim Kyung-han proposed a plan to introduce a 'Cyber Defamation Law'. The plan was announced by the Korean Communications Commission (KCC) which reportedly stated that online networks and Internet portals would be punished if they did not comply with its order to remove content which is deemed to be defamatory.

1537. Since 4 May, over 1,000 protesters have reportedly been arrested and there have been numerous complaints related to the excessive use of force by riot police and violations of the right to assemble during the candlelight vigil. Reports claim that on 31 May and 1 June, police used fire extinguishers and water cannons fired at close range against largely peaceful demonstrators, causing serious injuries such as blindness, broken bones and concussions. On 17 July 2008, riot police reportedly dispersed thousands of citizens who were participating in candlelit protests, with water canons containing florescent material, apparently to identify protesters for arrest.

1538. Furthermore, in the morning of 26 June 2008, Mr Joon-Hyeong Lee was monitoring one of the protests on behalf of MINBYUN's Human Rights Infringement Monitoring Team in Seoul. At the time, Mr Lee was reportedly wearing a jacket which clearly indicated that he was attending the protest in his capacity as a monitor. At approximately 1 a.m., police officers reportedly attempted to disperse the crowd with water canons and a short time later used their shields to force an end to the protest. One

of the police officers reportedly struck Mr Lee on the head with his shield, causing him to fall to the ground unconscious. Mr Lee was transferred to Seoul National University Hospital where he was treated for a fractured skull and internal bleeding.

1539. In the evening of 25 June 2008, Ms Jae-Jung Lee and Ms Young-Gu Kang were involved in monitoring one of the candlelit protests when they intercepted police reportedly arresting individuals who had failed to comply with demands to disperse. Ms Lee and Ms Kang were subsequently arrested by the police and taken to Ganbug Police Station in Seoul where they were detained for 24 hours. Earlier the same day, at approximately 4 p.m. Mr Jin Geol Ahn and Ms Hee Sook Yun were arrested for allegedly 'obstructing police in the course of duty'. At the time, Mr Jin Geol Ahn and Ms Hee Sook Yun were participating in a demonstration outside Kyong-bok Palace in Seoul when police reportedly began to arrest protesters on the spot. When Mr Jin Geol Ahn attempted to prevent the arrest of a minor, a number of police officers reportedly seized him from behind, while one of them forced him to the ground by the neck. Mr Geol Ahn reportedly suffered bruising as a result of the incident and was taken to Jong-ro police Station along with 30 others.

1540. According to reports, MINBYUN lawyers Ms Jae-Jeong Lee and Mr Gwang-Joong Kim were arrested on 1 June 2008 and detained for 6 hours by police officers. Mr Kim's arm was reportedly twisted during the interrogation, while Ms Lee was apparently struck in the chest with a shield. On the same day, Ms Na Rae Lee, who was participating in a candlelit protest, fell in front of a police convoy vehicle. A riot police officer who was close to Ms Lee at the time reportedly began to kick Ms Lee in the head while she was still on the ground. Ms Lee managed to seek temporary cover under the vehicle, but was forced to roll out again because of the engine. She was reportedly treated for concussion in the local hospital. The assault on Ms Lee was captured on video and has been aired on Munhwa Broadcasting Corporation (MBC), one of South Korea's main TV stations.

1541. Concern was expressed that the alleged arrests and the use of police violence against demonstrators during the candlelit protests, as well as the banning of protest related websites may represent a direct attempt to stifle freedom of expression in the country.

### **Response from the Government**

1542. In a letter dated 15 October 2008, the Government responded to the letter of allegations sent on 28 July 2008. The Government indicated that the four NGOs mentioned in the letter alleged that the Government restricted their right to freedom of opinion and expression and to freedom of assembly and demonstration during the candlelight demonstrations. Their allegations are based on incorrect and misleading facts. The Government protects the right to freedom of opinion and expression and the right to freedom of lawful and peaceful assembly and demonstration. In order to protect public order and the rights of other citizens, however, a minimum of measures against unlawful violent demonstrations as well as abusive exercise of the right to freedom of opinion and

expression are necessary in accordance with international human rights laws and domestic laws. Articles 19(3) and 22 of the International Covenant on Civil and Political Rights prescribe that the exercise of rights may be subject to certain restriction for respect of the rights or reputation of others and for the protection of public order.

### **Observations**

1543. The Special Rapporteur thanks the Government of the Republic of Korea for the responses provided to the communications sent on 10 July 2008 and 28 July 2008. She regrets however, that at the time of the finalization of the present report, no response had been received regarding the communications of 18 January 2008 and 16 May 2008. She urges the Government to transmit responses to the outstanding communications as well.

1544. The Special Rapporteur, while acknowledging the reply of the Government, remains concerned about the restrictions place on the freedom of assembly. The Special Rapporteur wishes to recall that according to article 5 point (a) of the Declaration on human rights defenders, for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully.

## **Kyrgyzstan**

### **Letter of allegations**

1545. On 31 December 2007, the then Special Representative sent a letter of allegation to the Government concerning Mr **Ulukbek Osmonov**. Mr. Ulukbek Osmonov is a member of the Presidential Commission for Human Rights, of the Coalition of NGOs and civil society, and is involved in the monitoring of elections in Kyrgyzstan.

1546. According to information received; on November 26 2007, Mr Ulukbek Osmonov was arrested in Kazakhstan. Mr Osmonov had left Kyrgyzstan after being informed that he was about to be arrested in the country. Mr. Osmonov was placed in pre-trial detention facilities at the Department of Internal Affairs in Talas province. He had been charged with “use of force against representatives of authorities” and the “infringement on life of law enforcement bodies”, for which he faces life imprisonment, if convicted.

1547. The events relating to the charges dated back to 26 May 2007, when the car of the former Prime Minister Almazbek Atambaev was attacked during a demonstration in Talas province. The demonstration was organized to protest against the reopening of a gold mine in Djerui. Mr Osmonov participated in this demonstration to protest against the working conditions in the gold mine. Criminal proceedings were subsequently initiated against ten of the demonstrators. As yet, only Mr Ulukbek Osmonov had been detained. Concern was expressed that the aforementioned arrest and charges against Mr Ulukbek Osmonov may be directly related to his peaceful human rights activities, in particular his work to defend workers’ rights in Kyrgyzstan.

### **Letter of allegations**

1548. On 10 January 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation to the Government concerning Ms **Tolekan Ismailova** of the organisation Citizens against corruption, Ms **Aigul Kyzalakova** and Ms Nazgul Turdubekova of Youth Human Rights Group and members of youth branches of political parties and movements Dilgir, Ar-Namys, Ata-Meken, Zelenye.

1549. According to information received, on 20 December 2007 militia officers arrested human rights defenders and 14 representatives of youth movements in Bishkek, for participation in a peaceful demonstration in protest at alleged irregularities in the parliamentary elections of 16 December. The participants were brought to the Bishkek Department of Interior's Temporary Facility Priemnik Raspredelitel' GUVD. Despite requests on the part of defence lawyers for an open hearing, an in camera session was conducted at night-time. Of the 19 people detained, 16, including the aforementioned human rights defenders, were sentenced to between 5 and 7 days.

1550. Concern was expressed that the arrest and detention of the aforementioned human rights defenders and youth activists may have been directly related to their work in defence of human rights.

### **Letter of allegations**

1551. On 24 January 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent a letter of allegation to the Government concerning Mr **Maksim Kuleshov**, head of the "Mir-svet kultura" Association

1552. According to information received; on 16 January 2008 Maksim Kuleshov conducted a protest action at the Bishkek Mayor's Office and Bishkek City Council. Mr Kuleshov was standing alone in front of the building of the Mayor's Office and held a sign with a note "Dusik, you are not right!" referring to the Mayor of Bishkek. The peaceful protest was forcibly stopped by police officers who arrested Mr Kuleshov and transferred him to Police Station No 9. Witnesses reported seeing two unknown policemen and one officer allegedly identified as Sydykov, beating Maksim Kuleshov. The latter officer hit him twice in the abdomen; others beat on his head and feet. The two unknown policemen, one of whom was plainclothed, did not identify themselves when asked. The policemen also took Mr Kuleshov's personal belongings including his clothes and mobile phone.

1553. Subsequently Mr Kuleshov appeared before the Leninsky Rayon Court, where Ms Aziza Abdirasulova, an associate acting in his defense stated that the charges against him were based on explanatory notes without signatures and names. The charges were in



Kyrgyz, which Mr Kuleshov, an ethnic Russian, does not speak, nor was there any interpreter present. Mr Kuleshov had requested a lawyer at the police station but his request was rejected, as was a request to see a doctor while he was in detention.

1554. Reports received indicated that the judicial outcome of the case concerning Mr Kuleshov's peaceful protest was dependent on the potential application of a Bishkek City Council decree which seeks to curtail assemblies, mass-meetings, marches, demonstrations and pickets in the city. Concern was expressed that Mr Kuleshov's alleged arrest, ill-treatment and detention may be directly linked to his activities in defense of human rights and his exercising of his right to freedom of expression and peaceful assembly. Further concern was expressed for legislative restrictions which are imposed with a view to curbing freedom of expression, movement and assembly.

### **Urgent appeal**

1555. On 4 February 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the government concerning a group of civil society activists, including Mr Tilek Sydykov, Mr Aibek Bakasov, Ms Aichurek Mamatkadyrova, Ms A. Asanova, Mr Joomark Saparbaev, Mr Mirsulzhan Namazaliev, Ms Gulshair Abdirasulova, Ms Jibek Ismailova, Mr Azamat Janybaev, and Mr Mirzat Adjiev.

1556. According to information received; on 28 January 2008, the aforementioned were arrested following their participation in a peaceful demonstration outside the building of the Kyrgyz parliament in protest against allegedly questionable practices in the recent elections. It was reported that following their arrest, they were detained in Pervomayski Rayon Police Department. Mr Mirzat Adjiev was reportedly released later the same day, but it is believed that the other participants in the peaceful demonstration remain in detention. These arrests were reportedly a result of a Bishkek City Council decree which entered into force on 5 December 2007, which seeks to greatly restrict assemblies, mass-meetings, marches, demonstrations and pickets in the city. This decree was mentioned in a previous communication sent by mandate holders to the Government on 24 January 2008.

1557. Concern was expressed that the arrest and detention of the aforementioned may be directly linked to their activities in defense of human rights and their exercising of the right to freedom of expression and peaceful assembly. Further concern was reiterated regarding legislative restrictions which are imposed with a view to curbing freedom of expression, movement and assembly.

### **Letter of allegations**

1558. On 24 April 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation to the Government concerning the alleged

warrantless raid of the community centre of the organization **Labrys**, an organization working for the rights of lesbian, gay, bisexual and transgender persons (LGBT). Labrys was founded in April 2004 to assist and advocate for the rights of lesbian and bisexual women, gay men, and transgender people. It has been a legally registered nongovernmental organization since 14 February 2006. The community center of Labrys, opened in February 2008, serves as a place for meeting and discussion, as well as shelter for victims of violence.

1559. According to the information received, on the evening of 8 April 2008, three police forced their way into the building housing the group Labrys in Bishkek, which at the time was hosting a dinner for local and international LGBT groups from the Anti AIDS Association and Tais Plus, as well as for international partner organizations – COC (Cultuur en Outspannings-Centrum) and HIVOS (Humanist Institute for Cooperation with Developing Countries) from the Netherlands, and Gender Doc-M from Moldova. The police threatened to arrest anyone who did not produce identification, and searched private files.

1560. It was reported that the police demanded to see the organization's registration documents, statutes, and rent statements. The police gained entry to a locked private office and went through desks and files. A short time later, the district police chief arrived and said the officers would leave only if Labrys promised to submit its administrative and financial documents to the police station the following day. Labrys complied with the request.

1561. This is reportedly the second time that the police have raided Labrys without a warrant. On 4 June 2006, police forced their way into the group's office after verbally threatening that they would rape everyone inside.

1562. The mandate-holders expressed their concern that the warrantless raid of the community centre of Labrys may be related to the activities of the organization in defense of human rights, in particular LGBT rights, and also that restrictions or breaches of the right to freedom of association may discourage defenders working on the protection of the right of marginalized or stigmatized groups to carry out their activities.

### **Letter of allegations**

1563. On 21 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of allegation to the Government in relation to Mr **Ivar Dale** and Ms **Lena Mamadnazarova**, Regional Representative and Project Coordinator respectively of the Norwegian Helsinki Committee (NHC) in Kyrgyzstan, Ms **Tolekan Ismailova** of the organisation Citizens against Corruption, and Ms **Aziza Abdurasulova**, head of the non-governmental organization (NGO) Kylym Shamy, an organization that monitors human rights violations in the Kyrgyz Republic. The NHC is an NGO which monitors compliance with the human rights provisions of the Organisation for Security and

Cooperation in Europe (OSCE) within all OSCE signatory states and supports democracy and civil society irrespective of the ideology and political position of states.

1564. Ms Aziza Abdurasulova was the subject of a letter of allegation sent by the then Special Representative to the Secretary General on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 18 May 2006. A response from the Government was received on 4 July 2006. Ms Tolekan Ismailova was the subject of a letter of allegation sent by the then Special Representative to the Secretary General on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 10 January 2008. No response from the Government has yet been received.

1565. According to information received, since arriving in Kyrgyzstan in November 2006, Mr Ivar Dale made unsuccessful efforts to register his office through the Ministry of Justice. On many occasions he was assured that the organization would be registered and was told that only minor corrections to the documents in his application were necessary. Given that he was required to provide a valid contract with a landlord for his office in order to have it registered, he set up an office and began to use it for work. The Ministry of Justice was aware of this work and officials from the Government have attended NHC events in Kyrgyzstan.

1566. On 9 June 2008, two representatives from the Ministry of the Interior (MVD) came with two unidentified individuals to carry out a search on the NHC office. The unidentified individuals photographed documents and asked questions about NHC projects, mentioning current problems for NGOs in Uzbekistan. No search warrant was shown to Mr Ivar Dale. He was also threatened by one of the unidentified persons with the words "If we want, we can just beat him up". The MVD representatives refused to call the Ministry of Justice to seek confirmation that the NHC office's application for registration was still under consideration despite Mr Ivar Dale's requests for them to do so.

1567. The following day, Mr Ivar Dale and Ms Lena Mamadnazarova were not provided with any information when they went to the Ministry of Justice for written confirmation that the NHC office's registration was still under consideration. According to a statement made by the Minister for Justice on BBC Radio, the only reason that the NHC office had not been registered was that some of their documents were missing. However, Mr Ivar Dale was called, usually without a warrant, to the police station several times. There he was threatened with having his visa annulled and threats were made about bringing charges against him and Ms Lena Mamadnazarova for operating the office without proper registration. These threats came about in spite of the NHC agreeing on 12 June 2008, to suspend its activity until the necessary registration and work permits were granted, on the understanding that the Ministry of the Interior would confirm to the Ministry of Justice that it had no objection to the registration of the NHC in the Kyrgyz Republic. Mr Ivar Dale was most recently called to the police station on 14 July 2008. Ms Tolekan Ismailova and Ms Aziza Abudurasulova, who were present when the NHC office was

being searched, were also been called to the police station and accused of interfering in the lawful work of law enforcement officials. Threats were also made about bringing charges against them.

1568. Concern was expressed that the threats and harassment against Mr Ivar Dale, Ms Lena Mamadnazarova, Ms Tolekan Ismailova and Ms Aziza Abudurasulova, as well as the reluctance to register the NHC office in the Kyrgyz Republic, might be related to the activities of the aforementioned in the defense of human rights. Concern was also expressed that while time and resources were dedicated to obtaining the registration of its office, the NHC in the Kyrgyz Republic would be unable to carry out its work effectively.

### **Urgent appeal**

1569. On 27 October 2009, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding Mr. **Ivar Dale**, Mr. **Ramazan Dyryldaev** and Ms. **Guliza Omurzakova**. Mr. Ivar Dale is the regional representative to Central Asia of the Norwegian Helsinki Committee (NHC), a non-governmental organization which monitors compliance with the human rights provisions of the Organization for Security and Cooperation in Europe (OSCE) within all OSCE signatory states, and supports democracy and civil society. Mr. Ramazan Dyryldaev is the Chairman of the Kyrgyz Committee for Human Rights (KCHR). Ms. Guliza Omurzakova is also a representative of the KCHR.

1570. On 21 July 2008, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a communication to your Government concerning Mr. Ivar Dale and the denial of the NHC's registration in Kyrgyzstan. No response has yet been received from your Government. Mandate-holders also sent communications to your Government concerning Mr. Ramazan Dyryldaev on 8 May 2003, 26 July 2004, 10 February 2005, and 21 September 2007. Responses from your Government were received on 15 September 2004 and 4 March 2005.

1571. According to new information received, on 22 August 2008, Mr. Ivar Dale arrived in Manas International Airport in Bishkek and was told that his one-year multiple-entry visa which was supposed to be valid until 25 November 2008 had been annulled. It was replaced with a single-entry visa which would be valid until 1 September 2008. On 12 October 2008, Mr. Ivar Dale was refused entry to Kyrgyzstan in Manas International Airport. He was not given any official explanation by Kyrgyz Border Service representatives who told him that he would be banned from entering Kyrgyzstan for 10 years. They referred to a decision of the law-enforcement authorities dated 17 September 2008 but did not give details of its title or the authority which had issued it because it was reportedly confidential. Mr. Ivar Dale contacted the Norwegian Ministry of Foreign Affairs, the German Embassy in Kyrgyzstan, and the Organisation for Security and Cooperation in Europe (OSCE) but none of these contacts were able to resolve the matter.

After almost a day in the airport Mr. Ivar Dale left Kyrgyzstan on 13 October 2008, taking a plane to Istanbul, Turkey.

1572. In a separate incident the following day, the car of Mr. Ramazan Dyrlydaev, in which he and Ms Guliza Omurzakova were travelling, was intentionally hit by a large white jeep. Mr. Ramazan Dyrlydaev suffered concussion and Ms. Guliza Omurzakova subsequently suffered from headaches and dizziness. The left-hand side of the car was damaged and the front and back left lights were broken. Mr Dyrlydaev was scheduled to take part in a press conference on the creation of a national movement against human rights violations in Kyrgyzstan on 15 October 2008.

1573. Concern was expressed that the prohibition of Mr. Ivar Dale's entry into Kyrgyzstan, and the attack on the car of Mr. Ramazan Dyrlydaev, may be directly related to their activities in the defense of human rights. Serious concern is expressed for the physical and psychological integrity of Mr. Ramazan Dyrlydaev and Ms. Guliza Omurzakova, as well as all members of the KCHR and other human rights defenders in Kyrgyzstan. Further concern was expressed that the incidents described above may form part of an ongoing trend of harassment aimed at restricting the work of human rights defenders in Kyrgyzstan.

### **Letter of allegations**

1574. On 5 November 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations concerning Mr. **Maxim Kuleshov**. Mr. Kuleshov is the director of the Tokmok Human Rights Resource Centre.

1575. Communications regarding Mr. Kuleshov were sent by mandate holders to Your Excellency's Government on 23 October 2007 and 24 January 2008. No response has yet been received to these communications.

1576. According to the new information received, on 23 October 2008 Mr. Kuleshov was arrested in Bishkek and taken to the May Day area police station. He was arrested shortly after having started his so-called "street lesson on democracy", which aims at training citizens in non-violent methods for protecting international human rights and the Constitution.

1577. Mr. Kuleshov was charged with "violating the established order on rallies and assemblies" (Art 392 of the Administrative Code), and "non-obedience to police forces" (Art 371 of the Administrative Code).

1578. He was kept in detention at the May Day area police station until 24 October 2008, when he was sentenced to a fine of 2000 soms (approx 40 Euros) on charges of "violating the established order on rallies and assemblies". He was acquitted of the second charge.

1579. Concern was expressed that the arrest, detention and sentencing of Mr. Kuleshov may be related to his legitimate activities in defence of human rights. Further concern was expressed that these acts may form part of an ongoing harassment due to his human rights activities.

### **Observations**

1580. The Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted a reply to any of her seven communication sent during the reporting period. Similarly, no replies have been received in the previous reporting cycle either. She considers response to her communications as an important part of the cooperation of Governments with her mandate, and urges the Government to respond to the concerns raised by her.

## **Lebanon**

### **Appel urgent**

1581. Le 27 juin 2008, la Rapporteuse spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent sur la situation de M. **Ghassan Abdallah**, président de l'Organisation palestinienne des droits de l'homme (OPDH), son vice-président, M. **Edward Kattoura**, ainsi que **les membres de l'OPDH en général**.

1582. Selon les informations reçues, depuis avril 2008, MM. Ghassan Abdallah et Edward Kattoura feraient l'objet de menaces de mort de la part du mouvement Fateh, et en particulier de la part de M. Jamal Mahmoud Dandashli, un réfugié palestinien vivant dans le camp de réfugiés palestiniens Rachideh au Liban et responsable de l'unité militaire du mouvement Fateh. MM. Ghassan Abdallah et Edward Kattoura seraient accusés par ce mouvement d'être respectivement un « espion à la solde de l'Occident et d'Israël » et un « collaborateur des phalangistes », pour avoir médiatisé l'implication de M. Dandashli dans un nombre de violations des droits de l'homme. En l'occurrence, le 7 avril 2008 M. Rabieh Rashed Hussein, réfugié du camp Rachideh, aurait été enlevé sous les ordres de M. Dandashli et maltraité, pour une affaire de mariage forcé (M. Nader Hussein, le frère de M. Rabieh Rashed Hussein, serait accusé d'avoir enlevé la sœur de M. Dandashli alors que celle-ci affirmerait avoir pris la fuite aux côtés de M. Nader Hussein après avoir refusé d'épouser de force un individu).

1583. Les 26 et 27 mai 2008, des factions politiques palestiniennes auraient déclaré qu'« elles se rendraient au bureau de l'OPDH, tireraient sur tous ceux qui se trouveraient sur place et mettraient le feu au bureau ».

1584. Il est allégué que MM. Ghassan Abdallah et Edward Kattoura auraient sollicité la protection des Forces (libanaises) de sécurité intérieure et du Département en charge de la lutte contre le terrorisme.

1585. Des préoccupations ont été exprimées quant au fait que les menaces de mort proférées à l'encontre de MM. Ghassan Abdallah et Edward Kattoura soient liées à leurs activités non-violentes de protection des droits de l'homme.

### **Réponse du Gouvernement**

1586. Par une lettre en date du 23 septembre 2008, le Gouvernement a indiqué que le 15 mars 2008, Mme Nasrine Dandashli a quitté le domicile de son époux Hussein Askoul, dans le camp de Rashidieh, en compagnie de M. Nader Rashed Hussein. Les proches de Nasrine ont porté plainte au poste de police des camps, relevant du détachement de Tyr. Le 7 avril 2008, M. Jamal Mahmoud Dandashli a convoqué M. Rabieh Rashed Hussein, et l'a interrogé dans son bureau pour savoir où se trouvait son frère Nader. Il l'a retenu pour faire pression sur Nader et l'obliger à rendre Nasrine à sa famille. Des médias ont appris la détention de Rabieh et des journaux ont publié la nouvelle, qui a également été diffusée par des sites Internet. L'association palestinienne de défense des droits de l'homme «Rased» a signalé l'enlèvement de Rabieh sur son site Internet. MM. Jamal Dandashli et Ibrahim Mohammed Saaddin ont téléphoné à M. Abd al-Aziz Mahmoud Tarakji et l'ont menacé pour avoir diffusé cette information sur Internet. M. Abd al-Aziz Tarakji a enregistré leurs menaces sur son téléphone et a porté plainte. Le dossier a été transmis au poste de police de la ville nouvelle de Saïda-Sidon. La famille de Nasrine s'est constituée partie civile auprès du parquet de la Cour d'appel du Sud dans l'affaire de la fugue de leur fille Nasrine et le dossier a été transmis à l'antenne de police judiciaire de Saïda-Sidon pour enquête. Nasrine s'est présentée et a déclaré avoir abandonné de son plein gré le domicile conjugal et ne pas souhaiter y rentrer, après quoi elle s'est réfugiée auprès de l'Organisation palestinienne des droits de l'homme, dont le conseil d'administration est dirigé par M. Ghassan Saïd Abdallah. M. Ghassan Abdallah a alors entrepris, en compagnie de M. Edouard Khalil Kattoura, de dénoncer les agissements de M. Dandashli, ce que ce dernier a considéré comme une intrusion dans sa vie privée. Il a alors menacé les deux hommes, que des officiers du Fatah ont en outre accusés d'être des agents à la solde d'Israël et de l'Occident. Des informations sur l'éventualité, voire la probabilité, d'une attaque contre le bureau de l'organisation, dans le camp de Mar Elias, ont circulé à de nombreuses reprises. M. Ghassan Abdallah a alors porté les menaces le visant à la connaissance du Haut Commissariat aux droits de l'homme à Genève, ce qui a abouti à une demande d'information à ce sujet auprès du Ministère libanais des affaires étrangères. Cette demande a été transmise par la voie hiérarchique à la Section antiterroriste de la police judiciaire, qui a enquêté à ce sujet. Les protagonistes ont fini par se réconcilier et Jamal Dandashli s'est engagé à ne s'en prendre à personne du fait de cette affaire. Peu de temps après, Nasrine est rentrée chez les siens. Les menaces visant Ghassan Abdallah et Edouard Kattoura étaient motivées par le fait qu'ils avaient rendu public le comportement de Jamal Dandashli et non par leurs activités dans le domaine des droits de l'homme.

### **Observations**

1587. La Rapporteuse spéciale remercie le Gouvernement de sa réponse et exprime sa satisfaction quant à la fin des menaces qui pesaient sur MM. Ghassan Abdallah et Edward Kattoura ainsi que sur les membres de l'OPDH en général.

## Malaysia

### Urgent appeal

1588. On 11 December 2007, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government concerning Mr **Salleh Puteh**, Mr **Muhammad Haji Yaakub**, Ms **Mariel Fong**, Ms **Hasnah Hashim**, Mr **Mohd. Asri Ahmad**, Mr **Mohd al-Farook**, Mr **Daud Samad**, Mr **Raja Salim** (a.k.a Raja Daud Raja Abdullah), Mr **Khairul Anuar Safsie**, Mr **Khairul Amirin Safsie**, Mr **Ahmad Asmadi Adnan**, Mr **Haji Abdul Hamid Baharuddin**, Mr **Rawandi Repini**, Mr **Sufian Manas**, Mr **Haji Sulaiman Ahmad**, Mr **Mohd. Harif Fathilah**, Mr **Azhar Yusuf**, Mr **Zamrol Majid**, Mr **Shaharul Anuar Abdul Ghani**, Mr **Mohd. Abdul Rahman Ariffin**, Mr **Mohd. Salim Yesman**, Mr **Abdul Rahman Mat Lodin**, Mr **Khairul Salleh Ahmad**, **Nasrullah bin Ahmad**, Mr **Taib Abdullah**, Mr **Ishak Othman**, Mr **Mohd. Shafie Ismail**, Mr **Mohd. Nazreen bin Mohd Nasir**, Mr **Mohd Abi Salam bin Ariffin**, Mr **Mohd Zad**, Mr **Yahya Mohd. Noh**, Mr **Mohammad bin Rifin**, Mr **Nawi Abdullah**, and Mr **Fauzi Awang Chik**. All of the aforementioned individuals are human rights activists.

1589. According to information received; on 10 November 2007 a peaceful protest was organised by the Gabungan Pilihanraya Bersih dan Adil/ Coalition for Clean and Fair Elections (BERSIH), a coalition of over eighty civil society groups in Malaysia. The protest was aimed at calling for free and fair elections and took place in Dataran Merdeka, in Kuala Lumpur. It is alleged that a total of 4,000 personnel were deployed in order to tackle the peaceful protest, including the Federal Reserve Unit, as well as members of police forces from Sentul, Dang Wangi, and Brickfields districts in Kuala Lumpur, armed with shields, batons and some with fire arms. Police reportedly attempted to prevent the protest from taking place by setting up road blocks in order to monitor all of the vehicles entering the area from outside Kuala Lumpur. Police also allegedly blocked off several of the roads which lead to Dataran Merdeka, as well as suspending train services and refusing members of the public entry to the venue of the protest.

1590. Tear gas and water cannons, spraying water containing harmful chemicals, were reportedly used by police in order to disperse the crowd even before the protest had begun. Thirty-four protestors; the aforementioned human rights activists were arrested. They were detained at IPK Jalan Hang Tuah and all were released by 11.00pm that day. Ten of those released were instructed to report back to the police station on 10 December 2007, when they would be informed whether or not charges were to be brought against them. The Chief of the National Police, Mr Musa Hassan, had also allegedly threatened to charge all parents who took their children to the protest with placing their children's safety at risk. Of those arrested, five protestors were said to have sustained injuries: Mr



Mohd. Asri Ahmad, Mr Mohd al-Farook, Mr Haji Abdul Hamid Baharuddin, Mr Khairul Salleh Ahmad, and Mr Nasrullah bin Ahmad. In addition, another protestor, Mr Aleyasak Hamid, who was not arrested was said to have suffered a broken leg due to being stepped on by a police officer. He was reportedly sent to the General Hospital, Kuala Lumpur for treatment.

1591. Concern was expressed that the excessive use of force employed by members of the police against peaceful protestors, as well as the arrests of protestors, may be directly related to the protestors' human rights activities, in particular their work to campaign for the rule of law and democracy in Malaysia.

### **Response from the Government**

1592. In a letter dated 6 August 2008, the Government responded to the communication, informing that the right to physical and mental integrity of all persons is guaranteed by the Constitution, which also provides that no person shall be deprived of his life or personal liberty, save in accordance with the law.

1593. Although Malaysia is not a party to the International Covenant on Civil and Political Rights 1966, it fully appreciates that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment as provided under Article 7 of the said Covenant. Malaysia also adheres to the philosophy and norms set out in the Universal Declaration of Human Rights 1948 and the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials ("UN Basic Principles"), which are not legally binding on States. Malaysia also asserts that the provisions of the Constitution and its legislative framework generally conform to the applicable international human rights law in this matter. In respect of the UN Basic Principles, the Government finds it important to reiterate that law enforcement officials, in carrying out their duty, may use force and firearms if other means remain ineffective or without any promise of achieving the intended result. In the context of the cases mentioned in the communication, the Government of Malaysia stresses that the exercise of power by the Malaysian Police is reasonable and necessary for the protection of national security and public order and for the purpose of ensuring protection for everyone.

1594. The actions surrounding the case are therefore compatible with international norms and standards and common in almost all jurisdictions worldwide. In view of the above, the Government reiterates its observation that the summary of the facts is not entirely accurate and not reflective of the actual situation prevailing during the protest. The concern with respect to the allegation of excessive use of force employed by members of the Police against peaceful protestors, as well as the arrests of the protestors, are therefore unfounded and baseless. The actions undertaken by the relevant authorities in Malaysia, including the Police force, are within the confines of the international human rights regime and national laws. All actions taken by the Malaysia Police are reasonable and necessary for the protection of national security and public order, in accordance with the constitutional and legislative framework of Malaysia and in line with international

law. As such, the issue regarding the deprivation of the right to physical and mental integrity does not arise.

### **Urgent appeal**

1595. On 27 December 2007, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the government concerning the recent wave of arrests and detention of a number of **ethnic Indian human rights defenders**, including - **P. Uthayakumar, M. Manoharan, R. Kenghadharan, V. Ganabatirau** and **T. Vasanthakumar**, all members of the Hindu Human Rights Action Force (HINDRAF).

1596. According to information received; on 13 December 2007, the aforementioned five ethnic Indian human rights defenders were arrested by Special Branch police officers while carrying out non-violent demonstrations at various locations in Selangor, Kuala Lumpur and Seremban. Their arrests were carried out on the basis of Section 8(1) of the Internal Security Act (ISA) for allegedly carrying out activities that threaten national security. They were currently being detained in Kamunting Detention Centre in Perak in Bukit Aman. The ISA allows persons to be detained for any period not exceeding two years. The five human rights defenders concerned were not presented with an arrest warrant; neither were they brought before a tribunal or given access to legal counsel.

1597. Moreover, on 25 November, police used tear gas and water cannons to disperse between 8,000 and 10,000 persons of Indian ethnic origin attending a peaceful rally organized by HINDRAF to protest against alleged discrimination practices against ethnic Indians in Malaysia. The objective of this rally was also to request compensation for the suffering caused to their ancestors who were brought from India as labourers in the 19th century. Thirty-one of the protestors were charged with attempted murder and causing mischief while others were charged with illegal assembly.

1598. On the eve of this rally, over 2,000 persons of ethnic Indian origin who were assembled in a Hindu temple in Batu Caves on the outskirts of Kuala Lumpur, were reportedly beaten by approximately 300 police officers with a view to dissuading those assembled from attending the rally being organized by HINDRAF on 25 November 2007. The police officers also used tear gas and water cannons, spraying a liquid chemical irritating to the eyes and skin. Around 70 persons who attempted to escape were arrested. Many were charged with attending an illegal assembly and failing to obey police orders.

1599. In addition, on 23 November, V. Ganapathy Rao, P. Uthayakumar, and P. Wyatha Moorthy, all HINDRAF officials, were arrested and charged with sedition for speeches allegedly inciting hatred delivered in a restaurant in Batang Berjuntai, Selangor, on 16 November. P. Wyatha Moorthy was remanded in custody while V. Ganapathy Rao, and P. Uthayakumar were released on bail. Finally, on 21 November 2007, again reportedly with the objective of preventing HINDRAF's plans to organize the same rally of 25 November 2007, police officers set up checkpoints on all roads leading to Kuala Lumpur

and prevented many ethnic Indians, who are not residents of the capital, from entering the city.

1600. Concern was expressed that the above-mentioned persons were targeted solely for carrying out peaceful human rights activities, and therefore for exercising their rights to freedom of expression and assembly. Concern as further expressed at the excessive use of force, arbitrary arrests and detention, as well as the arbitrary nature of the ISA which was declared by the Working Group on Arbitrary Detention to be contrary to international human rights norms and standards as it allows for long term detention without trial and without access to legal counsel.

### **Response from the Government**

1601. In a letter dated 28 August 2008, the Government responded to the communication, informing that despite its establishment in 2005, HINDRAF remains a non-registered society, which in itself is a contravention of the Societies Act 1966. HINDRAF has been actively promoting ethnic Indian issues to an extent that has incited racial and religious hatred of the predominantly Hindu ethnic Indian community against Malay-Muslims, evidenced by the holding of public rallies, gatherings and forums. Leading up to the months of November 2007, the Detainees organised a number of forums and gatherings during which inflammatory sentiments were widely circulated through the distributions of books, leaflets, on websites, short messaging services and VCDs. This is further illustrated through the materials gathered by the Police in their investigations on HINDRAF. HINDRAF have also began smear campaigns in Britain, the United States and India with claim that Malaysia is committing ethnic cleansing against Indians as a community subjected to systematic state oppression, a claim denounced by the Malaysian Government. The Police is currently investigating the linkage between HINDRAF and the Liberation Tigers of Tamil Eelam, an international terrorist organization.

1602. The cumulative actions taken by the Detainees in aggressively inciting feeling of ill-will amongst the races in Malaysia with deeply hurtful racial and religious rhetoric have resulted in the probability of any peaceful gathering a near impossibility. It is pertinent to note that the application and appeal by HINDRAF were rejected on grounds of maintaining public safety and order. The planned protest would have taken place within the vicinity of a busy shopping district with full public access. To further justify their stand, two days prior to the protest, the Police had obtained an order from the Magistrate's Court in Kuala Lumpur to restrain the HINDRAF leaders and its supporters from carrying out said protest. The necessity of the said court Order was obtained after the Police found one of the Detainees, i.e. M. Manoharan present at a public gathering and made a speech on 18 November 2007.

1603. Based on the information gathered, it is clear that the probability of having a peaceful protest in a highly sensitive location was low and as such the Police sought to curtail any possibility of a protest by obtaining the Court Order. The Police made all efforts to inform the public and possible protesters of the illegality of the rally;

nevertheless, their efforts came to naught. Despite the early warning, the Police received information that a crowd had gathered at the Batu caves Temple and rushed to the scene where they advised and given several warnings to the members of the rally to disperse. They refused and instead forced open the Temple gates and damaged the properties there. The crowd grew bolder and more defiant and the Police were left with no choice but to use water cannons and tear gas to disperse them. Based on the reports gathered from the Police, the water cannons that were used at the Batu Caves were not laced with any form of chemical, it was plain water.

1604. The arrests at Batu Caves did not seem to deter another large group from assembling at the city centre. After a long stand-down and countless calls to disperse, the Police were forced to charge when members of the assembly became unruly and started throwing rocks at the Police. Tear gas canisters that were fired into the crowd were picked up and thrown back at the Police; and water cannon jets caused them to scatter only to regroup in greater force shortly afterwards. In this incident the Police did resort to using chlorobenzal melano nitrate (CS gas) concentration 2%, and only after the use of plain water had failed to disperse the crowd. A total of 54 persons, actively involved as protesters were arrested in the city that day.

1605. Regarding the arrests of the detainees, the arrests were not for carrying out non-violent demonstrations but for aggressively inciting feeling of ill-will amongst the races in Malaysia with deeply hurtful racial and religious rhetoric under Section 8 (1) of the Internal Security Act 1960 on the grounds that they were a threat to public order and national security. It is evidently clear that the implementation of the prevention detention under the ISA with sufficient safeguards as provided under the law ensures compliance with the rule of law. The Government of Malaysia supports and promotes the protection and realization of human rights and fundamental freedoms within the confines of the provisions of the Federal Constitution of Malaysia. In implementing acceptable human rights principles and standards, the Government of Malaysia reiterates that the implementation must take into consideration the prevalent public and national interest of the country. As a multi-racial country, it is important for the Government of Malaysia to maintain the unity amongst the races as a foundation for peace and stability.

1606. In conclusion, the facts as the Government stipulated represents the true facts of the case involved. There were no violations of human rights of any person or class of persons or any ethnic group as alleged in the Communication.

### **Letter of allegations**

1607. On 14 January 2008, the then Special Representative, together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, sent a letter of allegation to the Government concerning the death of Mr **Kelesau Naan**. Mr Naan was an aboriginal leader of the Penan people in Sarawak, Borneo and a leader of the blockade campaign against logging in the Upper Baram region.

1608. According to information received, on 17 December 2007, Mr. Kelesau Naan's body was found at Sungai Segita. The condition of the corpse suggested possible assault before his death. According to the allegations, Mr. Kelesau Naan, who had been last seen on 23 October 2007, was one of the main leaders of the anti-logging campaign in the Upper Baram region, where tensions between the indigenous peoples and logging companies have reportedly escalated in recent months. He was also one of four plaintiffs and a key witness in a court case on the claim of customary land by Penan in Sarawak awaiting judgment since 1998.

1609. Concern was expressed that the death of Mr. Kelesau Naan may be directly linked to his non-violent activities in defence of human rights, and particularly of the rights of indigenous peoples in the Upper Baram region.

### **Response from the Government**

1610. In a letter dated 23 July 2008, the Government responded to the communication, confirming the facts issued in the letter of allegations concerning the finding of the body of Mr. Kelesau Naan. However based on the official information there is no confirmation whether the deceased had been assaulted before his death. On 3 January 2008, the son of the deceased lodged a police report. According to Nick Kelesau, the delay in lodging the report was due to the remote location of the village and the journey is wearisome. The complaint lodged by the deceased's son stated that there were signs of broken arm bones as a result of beating. The death of Kelesau Naan is still under police investigation. At present, the case is classified as a sudden death report. Initially, the police had requested from the family of the deceased to exhume the skeletal remains of the deceased, as the remains were buried before the police report on his death was lodged. This request was however rejected by his family. In addition, the information on the disappearance and the death of the deceased was only known to the authorities after the police report was lodged by the complainant on 3 January 2008, approximately three months after the disappearance of the deceased in October 2007, and more than two weeks after the recovery of the deceased's skeletal remains. On 18 February 2008, the Chief of Police of Sarawak announced that the police would obtain a court order to exhume the body. As of 8 March 2008, police investigation on the matter is still on-going and the official post-mortem report from the Miri General Hospital where the exhumed skeleton remains were taken has yet to be released.

1611. At this juncture, and until and unless investigations by the police and forensic examinations by the hospital authorities are completed, the Government of Malaysia is not in the position to provide any official observation as to whether the death of the deceased may be directly linked to his non-violent activities in defense of human rights. Initial post-mortem report indicates that the deceased dies of natural cause. The Government of Malaysia would like to state that relatives of the deceased have lodged a complaint with the Human Rights Commission of Malaysia (SUHAKAM) with regard to his death. The Government confirmed that the deceased is a principal plaintiff and a key witness in a court case on the claim of customary land by Penan in Sarawak awaiting judgment since 1998.

1612. The Government concluded by stating that the summary of the facts contained in the Communication does not reflect the accurate facts and information. Until and unless investigations by the police and forensic examinations by the hospital authorities are completed the Government of Malaysia is not in the position at this juncture to provide any conclusive observation as to whether or not the death of the deceased may be directly linked to his non-violent activities.

### **Letter of allegations**

1613. On 11 December 2007, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government concerning Mr **Salleh Puteh**, Mr **Muhammad Haji Yaakub**, Ms **Mariel Fong**, Ms **Hasnah Hashim**, Mr **Mohd. Asri Ahmad**, Mr **Mohd al-Farook**, Mr **Daud Samad**, Mr **Raja Salim** (a.k.a Raja Daud Raja Abdullah), Mr **Khairul Anuar Safsie**, Mr **Khairul Amirin Safsie**, Mr **Ahmad Asmadi Adnan**, Mr **Haji Abdul Hamid Baharuddin**, Mr **Rawandi Repini**, Mr **Sufian Manas**, Mr **Haji Sulaiman Ahmad**, Mr **Mohd. Harif Fathilah**, Mr **Azhar Yusuf**, Mr **Zamrol Majid**, Mr **Shaharul Anuar Abdul Ghani**, Mr **Mohd. Abdul Rahman Ariffin**, Mr **Mohd. Salim Yesman**, Mr **Abdul Rahman Mat Lodin**, Mr **Khairul Salleh Ahmad**, Mr **Nasrullah bin Ahmad**, Mr **Taib Abdullah**, Mr **Ishak Othman**, Mr **Mohd. Shafie Ismail**, Mr **Mohd. Nazreen bin Mohd Nasir**, Mr **Mohd Abi Salam bin Ariffin**, Mr **Mohd Zad**, Mr **Yahya Mohd. Noh**, Mr **Mohammad bin Rifin**, Mr **Nawi Abdullah**, and Mr **Fauzi Awang Chik**. All of the aforementioned individuals are human rights activists.

1614. According to information received, on 10 November 2007 a peaceful protest was organised by the Gabungan Pilihanraya Bersih dan Adil / Coalition for Clean and Fair Elections (BERSIH), a coalition of over eighty civil society groups in Malaysia. The protest was aimed at calling for free and fair elections and took place in Dataran Merdeka, in Kuala Lumpur.

1615. A total of 4,000 personnel were deployed in order to tackle the peaceful protest, including the Federal Reserve Unit, as well as members of police forces from Sentul, Dang Wangi, and Brickfields districts in Kuala Lumpur, armed with shields, batons and some with fire arms. Police attempted to prevent the protest from taking place by setting up road blocks in order to monitor all of the vehicles entering the area from outside Kuala Lumpur. Police also blocked off several of the roads which lead to Dataran Merdeka, as well as suspending train services and refusing members of the public entry to the venue of the protest.

1616. Tear gas and water cannons, spraying water containing harmful chemicals, were used by police in order to disperse the crowd even before the protest had begun. Thirty-four protestors were arrested: Mr **Salleh Puteh**, Mr **Muhammad Haji Yaakub**, Ms **Mariel Fong**, Ms **Hasnah Hashim**, Mr **Mohd. Asri Ahmad**, Mr **Mohd al-Farook**, Mr **Daud Samad**, Mr **Raja Salim** (a.k.a Raja Daud Raja Abdullah), Mr **Khairul Anuar Safsie**, Mr

Khairul Amirin Safsie, Mr Ahmad Asmadi Adnan, Mr Haji Abdul Hamid Baharuddin, Mr Rawandi Repini, Mr Sufian Manas, Mr Haji Sulaiman Ahmad, Mr Mohd. Harif Fathilah, Mr Azhar Yusuf, Mr Zamrol Majid, Mr Shaharul Anuar Abdul Ghani, Mr Mohd. Abdul Rahman Ariffin, Mr Mohd. Salim Yesman, Mr Abdul Rahman Mat Lodin, Mr Khairul Salleh Ahmad, Nasrullah bin Ahmad, Mr Taib Abdullah, Mr Ishak Othman, Mr Mohd. Shafie Ismail, Mr Mohd. Nazreen bin Mohd Nasir, Mr Mohd Abi Salam bin Ariffin, Mr Mohd Zad, Mr Yahya Mohd. Noh, Mr Mohammad bin Rifin, Mr Nawawi Abdullah, and Mr Fauzi Awang Chik. They were detained at IPK Jalan Hang Tuah and all were released by 11.00pm that day. The Chief of the National Police, Mr Musa Hassan, has threatened to charge all parents who took their children to the protest with placing their children's safety at risk.

1617. Of those arrested, five protestors are said to have sustained injuries: Mr Mohd. Asri Ahmad, Mr Mohd al-Farook, Mr Haji Abdul Hamid Baharuddin, Mr Khairul Salleh Ahmad, and Mr Nasrullah bin Ahmad. In addition, another protestor, Mr Aleyasak Hamid, who was not arrested is said to have suffered a broken leg due to being stepped on by a police officer. He was sent to the General Hospital, Kuala Lumpur, for treatment.

1618. Concern is expressed that the excessive use of force employed by members of the police against peaceful protestors, as well as the arrests of protestors, may be directly related to the protestors' human rights activities, in particular their work to campaign for the rule of law and democracy in Malaysia.

### **Response from the Government**

1619. In a letter dated 6 October 2008, the Government responded to the communication, stating that the Government of Malaysia observes that this is a follow-up communication to that dated 11 December 2007, with the exception of paragraph 6 of the communication. The Government therefore states that with the exception of paragraph 6, the response in respect of said first communication is applicable in relation to the circumstance regarding the cases of the persons named in the second communication. In the context of the circumstances regarding the cases in this Communication, the Government of Malaysia stresses that the exercise of power by the Malaysian Police is reasonable and necessary for the protection of national security and public order.

### **Urgent appeal**

1620. On 15 September 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding the trial of Dr. **Irene Fernandez**, Director of Tenaganita, an organization dedicated to the defense of women's rights in Malaysia.

1621. According to the information received, in 1995, Dr. Irene Fernandez published a memorandum entitled Abuse, Torture and Dehumanized Conditions of Migrant Workers in Detention Centers. The memorandum called for an inquiry into the conditions in Malaysian detention centers. However, instead of leading to such an inquiry, the

publishing of the memorandum resulted in Dr. Irene Fernandez being charged under Section 8 A (1) of Malaysia's Printing Press and Publication Act for maliciously publishing false news. In October 2003, Dr. Irene Fernandez was sentenced to 12 months' imprisonment. She was later granted bail on the condition that she applied to court every time she wished to travel overseas. A hearing was scheduled for 28 October 2008 for the case of Dr. Irene Fernandez at the High Court of Malaya, Jalan Duta, Kuala Lumpur.

1622. Concern was expressed that the legal action against Dr. Irene Fernandez, as well as the travel restrictions which were imposed on her, may have been related to her activities in the defense the human rights of detainees in Malaysia.

### **Urgent appeal**

1623. On 19 September 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation to the Government concerning Mr **Raja Petra Kamaruddin**, editor and founder of the online newspaper Malaysia Today.

1624. According to information received, on 12 September 2008, Mr Raja Petra Kamaruddin was arrested, together with Ms Teresa Kok, a Member of Parliament with the Democratic Action Party (DAP) and State Legislative Councilor, and Ms Tan Hoon Cheng, a senior journalist with Chinese-language newspaper Sin Chew Daily, under Section 73(1) of the Internal Security Act (ISA) for allegedly posing a threat to "security, peace and public order". In accordance with Section 73 (1) of the Act, individuals can be detained for up to sixty days without trial, and thereafter for a period of two years should the Home Ministry decide to extend the detention order.

1625. Mr Raja Petra Kamaruddin was arrested at this home in Sunglai Buloh, in the province of Selangor, at approximately 1:00 p.m., by ten police officers who took him for questioning to an unknown location in Bukit Aman. Mr Kumaruddin's arrest is apparently related to recent comments he made about Islam on the website Malaysia Today. Mr Kamaruddin is already facing prosecution on alleged charges of defamation and sedition in relation to articles and comments he had posted on his website in the past. On 26 August 2008, access to the Malaysia Today website was blocked following pressure from the Malaysian Communications and Multimedia Commission, the State agency charged with oversight of the communications industry. However, it became accessible again on 12 September. In 2001, Mr Kumaruddin was arrested for his involvement with the National Justice Party. He was responsible for editing the Party's newspaper, the content of which was deemed as 'seditious' by the authorities.

1626. Mr Kamaruddin remains in detention in Bukit Aman. The exact location of his detention is unknown. However reports claim that he is possibly being held at the main



police headquarters in Bukit Aman, where he was granted a visit by his wife and daughters on 16 September. He was due to meet with his lawyer on 18 September.

1627. At approximately 11:00 p.m. on 12 September, Ms Teresa Kok was arrested by police officers while on her way home. She was taken to an unknown location in Bukit Aman. On 15 September, Ms Kok received a visit from her family at the Bukit Aman police headquarters. During the visit she apparently indicated that she was being well treated, but that she was suffering from low blood pressure, according to a medical check she received while in detention. Ms Kok remained in detention at an undisclosed location in Bukit Aman and the reason for her arrest is unclear. Ms Teresa Kok was reportedly released on 19 September 2008.

1628. Ms Tan Hoon Cheng was arrested at her home in Penang in the evening of 12 September. Her arrest was reportedly related to an article she had written citing comments made by Minister Ahmad Ismail, the Malay leader of the ruling United Malays National Organisation (UMNO), who allegedly referred to Malaysians of Chinese origin as “squatters”. Ms Cheng was taken into police custody for questioning in relation to her work. She was released 16 hours later, without charge.

1629. During a press conference on 13 September, the Interior Minister reportedly stated that he had not ordered the aforementioned arrests and that he was unable to intervene, unless a decision was taken in accordance with the police. Lawyers acting for Mr Raja Petra Kamaruddin are due to file a writ of habeas corpus seeking his release. The application was expected to be filed at the Kuala Lumpur High Court on 15 September 2008.

1630. Concern was expressed that the aforementioned events may represent a direct attempt to prevent independent reporting in Malaysia, thus stifling freedom of expression in the country.

### **Response from the Government**

1631. In a letter dated 12 December 2008, the Government responded to the communication, stating that the summary of the case which had been outlined by the Experts in the Communication based on the information received, are not entirely accurate. The Government confirmed that all three individuals were arrested on 12 September 2008 under subsection 73 (1) of the Internal Security Act 1960. The reasons were different.

1632. Ms. Tan Hoon Cheng was detained on the grounds of publishing fabricated news regarding a statement made by Dato’Ahmad Ismail, Division Head, Bukit Bendera UMNO Division, Pulau Pinang that Chinese were mere migrants and “squatters” in Malaysia. This raised the ire of the Chinese against the Malays. Upon further investigation by the police, Ms Tan Hoon Cheng was released 13 September 2008 on the grounds that her detention under subsection 73(1), Act 82 was inappropriate to be continued.

1633. Ms Teresa Kok was detained on several grounds. The first was causing uproar amongst the Malays Muslims by questioning the issue of Azan or the Muslim call to prayer and secondly by questioning the usage of the tradition Malay know as jawi. Regarding the issue azan, the police received three (3) separate police reports including one police report on the incidences of cutting electrical wires connected to the loudspeakers of a surau which broadcasted the azan as well as the incidence stones thrown at the said surau. On 15 September 2008, Teresa's father, mother, cousin and her Special Assistant were allowed to visit Teresa. On 17 September 2008, a counsel of Teresa's choice was given visitation right.

1634. Mr Raja Petra Kamaruddin was detained on 12 September 2008 under subsection 73(1), Act 82 due to his involvement in publishing articles in his blog site "Malaysia Today." These articles were blasphemous to Islam and were also tarnishing the country's leadership to an extent that these articles had caused confusion amongst the populace and threatened to jeopardize the national security of Malaysia. Mr Kamaruddin had published an article entitled "Let's Send Altantuya Murderers to Hell" in his blog "Malaysia Today" which had falsely accused a prominent leader in the Malaysian Government to be involved in the murder of a Mongolian national, Altantura Saaribu. Mr Kamaruddin had published or allowed to be published in his blog "Malaysia Today" articles which had tarnished the image of Islam and defamed one of the holiest persons in Islam, Prophet Muhammed. These articles had caused extreme anger amongst the Muslims, mainly of Malay race, hatred between Muslims and non-Muslims in Malaysia and had seriously affected national security and interest. Mr Kamaruddin's family and a legal counsel of his own choice have been allowed to see him. The lawyers acting for Mr. Kamaruddin have filed the writ of habeas corpus and the trail of the matter began on 23 September 2008.

1635. Mr Kamaruddin was detained under subsection 73(1), Act 82 at the Detention Centre, Royal Malaysian Police Headquarters from 12-22 September 2008. Upon the issuance of the Detention Order by the Minister of Home Affairs, he was detained at the Protective Detention Centre in Taiping, Perak from 22 September 2008. Upon the issuance of the writ of habeas corpus by the High Court on 7 November 2008, Mr. Kamaruddin was released from said Protective Detention Centre.

1636. The Government of Malaysia supports and promotes the protection and realization of human rights and fundamental freedoms within the confines of the provisions of the Federal Constitution of Malaysia. In implementing acceptable human rights principles and standards, the Government of Malaysia reiterates that the implementation must take into consideration the prevalent public and national interest of the country.

### **Urgent appeal**

1637. On 28 October 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Independent Expert on Minority Issues sent an urgent appeal to the

Government concerning the arrest of family members of detained **Hindu Rights Actions Force (HINDRAF) lawyers**, and the decision to declare the HINDRAF an illegal organisation. Members of HINDRAF were the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders on 27 December 2007, and another urgent appeal sent by the Special Rapporteur on the question of torture, the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 21 April 2008. We acknowledge receipt of the responses of the Government of Your Excellency to the first communication sent on 8 February and 28 August 2008. A response to the second communication has yet to be provided.

1638. According to the information received, on 23 October 2008, Ms P. Vwaishhnavi, daughter of P. Waythamoorthy and niece of HINDRAF leader P. Uthayakumar, was arrested, together with her mother K. Shanti, S. Jayathas, P. Tamaraju, P. Waytha Nayagi, Poobalan, R. Kannan, Mary Shanti, Bala, Rajasekaran and Ravi Sundaram, on their way to the Prime Minister's office in Putrajaya. The group intended to submit a Deepavali card to the Prime Minister calling for the release of five human rights defenders from HINDRAF imprisoned under the Internal Security Act. The 11 detained persons are currently being held at the Putrajaya district police headquarters.

1639. On 15 October 2008, HINDRAF was declared an illegal organisation under Section 5(1) of the Societies Act. The decision was reportedly made as a result of monitoring and investigation on HINDRAF's activities since its inception, by the Registrar of Societies (ROS) and Home Ministry. According to Home Minister Datuk Seri Syed Hamid Albar, "if left unchecked, HINDRAF would continue to pose a threat to public order, the security and sovereignty of the country as well as the prevailing racial harmony". On 16 October 2007, HINDRAF applied for registration with the ROS, but a decision had yet to be taken.

1640. Concern was expressed that the arrest and detention of the aforementioned persons and the decision to declare HINDRAF an illegal organisation may be linked to HINDRAF's activities in the defence of the rights of the ethnic minority Indians in Malaysia.

### **Response from the Government**

1641. In a letter dated 29 October 2008, the Government responded to the communication, stating that the urgent appeal has been transmitted to the Ministry of Foreign Affairs for the necessary follow-up action.

### **Observations**

1642. The Special Representative thanks the Government of Malaysia for its responses to five communications, but regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications of 15 September 2008 and 10 October 2008 (only partial response received). She considers response to her communications an important part of the cooperation of Governments with her mandate. She urges the Government to respond to the concerns raised by her, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

1643. The Special Rapporteur urges the Government of Malaysia to make every effort to create an environment conducive to the work of human rights defenders who support the rights of minorities, of indigenous peoples as well as labour rights.

## **Mauritania**

### **Lettre d'allégations**

1644. Le 3 septembre 2008, la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une lettre d'allégations sur la situation de M. **Samory Ould Beye**, le secrétaire général de la Confédération libre des travailleurs de Mauritanie (CLTM), et la répression de manifestations pacifiques de syndicalistes. Selon les informations reçues :

1645. Le 19 août 2008, les forces de sécurité mauritaniennes auraient réprimé une manifestation syndicale organisée afin de protester contre le coup militaire du 6 août 2008. Bien que cette manifestation ait été pacifique et autorisée, les forces de l'ordre mauritaniennes auraient dispersé par la force les manifestants et auraient amené plusieurs syndicalistes, dont M. Samory Ould Beye, au poste de police de Nouakchott, afin d'être interrogés, avant d'être libérés ultérieurement.

1646. De même, une manifestation similaire, organisée le 7 août 2008 par le Front National pour la Défense de la Démocratie, aurait été dispersée par la police devant le Parlement.

1647. Des craintes ont été exprimées quant au fait que l'arrestation et l'interrogation de M. Samory Ould Beye et des autres syndicalistes soient liées à leurs activités de défense des droits de l'homme et ce dans l'exercice présenté comme non-violent de leur droit à la liberté d'opinion, d'expression et de réunion pacifique.

### **Observations**

1648. La Rapporteuse spéciale regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 3 septembre 2008 et exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celle-ci.

## Mexico

### Llamamiento urgente

1649. El 22 de enero de 2008, la Representante Especial envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el Señor **Fernando Ruiz Canales**, Presidente del Consejo para la Ley y los Derechos Humanos, organización que trabaja con familias que han sido víctimas de secuestros, supuestamente cometidos por parte del Ejército mexicano.

1650. Según la información recibida; en la madrugada del 14 de enero de 2008, Fernando Ruiz Canales se habría desplazado desde su domicilio en Tlaxcala a la ciudad de México cuando tres vehículos sin matrícula le habrían seguido durante más de una hora. Los ocupantes de los vehículos habrían amenazado a Fernando Ruiz Canales de muerte mientras mostraban sus armas de fuego a fin de intimidarle. Desde septiembre del 2007, Fernando Ruiz Canales habría sido objeto de varios actos de hostigamiento, amenazas de muerte, intentos de arresto, y vigilancia clandestina, incluyendo la intervención de sus comunicaciones telefónicas. El 30 de octubre del 2007 habría recibido un email que contenía una amenaza de muerte. Asimismo, el 31 de octubre del 2007 habría recibido una llamada telefónica insultándole y amenazándole de muerte

1651. Se temía que las amenazas en contra del susodicho podrían estar directamente relacionadas con su trabajo en la defensa de los derechos humanos, especialmente su trabajo relativo a las víctimas de secuestros supuestamente cometidos por parte del ejército mexicano. Se expresó profunda preocupación por la integridad física y psicológica de Fernando Ruiz Canales.

### Respuesta del Gobierno

1652. Mediante carta fechada el 25 de febrero de 2008, el Gobierno respondió al llamamiento urgente. La carta comunicó que por lo que hace a los hechos referidos el Gobierno no estaba en posibilidad de determinar sobre su exactitud y veracidad, toda vez que la Procuraduría General de Justicia del estado de Tlaxcala manifestó que después de que sus autoridades ministeriales realizaran una búsqueda exhaustiva en los libros de gobierno de la agencia del Ministerio Público de Tlaxcala, no se halló registro alguno de investigación ministerial o averiguación previa que tuviera relación con la descripción de los hechos referidos en el llamamiento urgente. La Dirección General de Derechos Humanos de la Secretaría de la Defensa Nacional, previa consulta que le hiciera la Cancillería, informó no haber recibido queja o denuncia alguna por amenazas y actos de hostigamiento en contra del señor Ruiz Canales por su labor en la defensa de los derechos humanos. Por lo anterior se hizo un atento llamado para que el Sr. Ruiz Canales presentara su denuncia sobre los hechos de los que dijo haber sido objeto ante las

autoridades ministeriales del estado de Tlaxcala para estar en posibilidad de iniciar las investigaciones y en su caso sancionar al o los responsables y tomar las medidas que correspondiera.

1653. Respecto a las medidas cautelares, el 20 de febrero de 2002, se presentó el señor Fernando Ruiz Canales en las instalaciones de la Cancillería, exhibiendo un escrito anónimo que contenía amenaza de muerte contra su persona, el cual según refirió fue hallado el 27 de octubre de 2001 en la misma caseta telefónica donde habían sido amenazados otros cuatro hombres. El 24 de febrero de 2002, el Gobierno de México de muto propio decidió implementar las medidas de seguridad a favor del señor Ruiz Canales con motivo de su trabajo como defensor de derechos humanos. Las medidas consistieron en iniciar una investigación exhaustiva por parte de la Procuraduría General de la República, además de otorgarle el servicio de escolta para su protección. El 17 de marzo de 2002, el señor Fernando Ruíz canales solicitó el retiro de la escolta debido a que abandonaría el país. En junio de 2002, una vez que el Gobierno tuvo conocimiento de que el peticionario se encontraba en el país, de nueva cuenta y sin que mediara solicitud por parte de la Comisión reanudó el servicio de escolta en su favor.

1654. El 24 de julio de 2002, el señor Fernando Ruíz Canales de nuevo argumentó haber sufrido hostigamiento y amenazas mediante un escrito anónimo depositado en el buzón de su domicilio; no obstante de que fueron investigados los acontecimientos, el peticionario jamás aportó elemento alguno para determinar el autor del citado escrito, a pesar de la insistencia por parte de las autoridades encargadas de la investigación. El 1 de agosto de 2002, mediante correo electrónico, comunicó a los representantes del gobierno de México que nuevamente le fuera retirada la escolta en virtud de haber decidido salir del país. Cabe señalar que durante la implementación de las citadas medidas, el señor Ruiz Canales hizo uso indebido de los elementos asignados para su seguridad, ordenándoles en ocasiones tareas muy diferentes a las encomendadas (compra de alimentos y realizar labores domésticas, entre otras). Incluso, la Cancillería tuvo conocimiento que en varias ocasiones se ostentó como agente de la Policía Federal, exponiéndose en lo personal y exponiendo a los elementos de su escolta; también se supo que inclusive llegó a los golpes con uno de los elementos de la propia escolta.

1655. El 21 de abril de 2004, la CIDH decidió archivar las medidas cautelares otorgadas a favor del señor Fernando Ruiz Canales y los otros cuatro que supuestamente recibieron amenazas el 27 de octubre de 2001, al no identificar elementos o indicio alguno que permita presumir amenazas y actos de hostigamiento en su contra.

### **Llamamiento urgente**

1656. El 23 de enero de 2008, la Representante Especial junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **Lauro Juárez**, dirigente comunitario indígena chatino, recientemente elegido Regidor de Hacienda en el municipio de Santa María Temaxcaltepec, estado de Oaxaca.

1657. Según la información recibida, el 26 de diciembre de 2007, el Sr. Lauro Juárez se habría integrado a la manifestación iniciada por un grupo de aproximadamente 1.200 personas en la carretera que une la ciudad de Oaxaca y Puerto Escondido. La manifestación tendría como objetivo protestar por la negativa del Instituto Estatal Electoral de Oaxaca a reconocer a los representantes municipales del municipio de Santa María Temaxcaltepec, elegidos por asamblea según los usos y costumbres indígenas el día 23 de noviembre de 2007. Los manifestantes habrían denunciado además una serie de incidentes violentos y amenazas que se habrían producido en las asambleas celebradas en las comunidades de San Gabriel Mixtepec y Santos Reyes Nopala, también en noviembre de 2007.

1658. El 29 de diciembre, la protesta se habría desconvocado por temor a represalias. Cuando los manifestantes se dirigían de vuelta a sus comunidades por la carretera a Santa María Temaxcaltepec el 30 de diciembre, habrían sido interceptados por un grupo de aproximadamente 70 hombres armados, quienes les habrían sometido a golpes e intimidaciones. El Sr. Juárez, habría sido visto por última vez en la madrugada del 30 de diciembre, durmiendo en una casa cercana al lugar de la protesta. Al emitir la comunicación, se encontraba en paradero desconocido. Su desaparición habría sido denunciada a la Procuraduría General de Oaxaca y a la Comisión Interamericana de Derechos Humanos.

1659. Se temía que la desaparición del Sr. Juárez podría estar vinculada con su trabajo en defensa de los derechos humanos, en particular por sus actividades relacionadas con los derechos de los indígenas. Se expresó preocupación por su integridad física y psicológica.

### **Respuesta del Gobierno**

1660. Mediante dos cartas fechadas el 18 de enero de 2008 y el 25 de febrero de 2008, el Gobierno respondió al llamamiento urgente. En relación con los hechos del llamamiento urgente, las cartas comunicaron que el 2 de enero de 2008, los señores Petronilo de la Lid Cortés y Jaime Loaeza Juárez presentaron formal denuncia de la desaparición del Sr. Lauro Juárez.

1661. Las cartas informaron que hasta el momento, la investigación realizada por la PGJ Oax no ha arrojado elementos objetivos que muestren la configuración de una desaparición forzada. Las cartas informaron que la CIDH solicitó el 1 de febrero de 2008, la adopción de medidas cautelares a favor del Sr. Lauro Juárez. Asimismo, la Procuraduría General de Justicia del estado de Oaxaca (PGJ-Oax) inició una averiguación previa. Los peticionarios solicitaron el nombre del comandante de la policía ministerial responsable de la investigación de los hechos de la averiguación previa y que se otorguen las medidas de protección a los testigos consistentes en que sus comparencias se realicen en el domicilio que señalarán. El Estado Mexicano dará respuesta por escrito en un plazo razonable.

1662. Las cartas comunicaron que los peticionarios manifestaron que en virtud del hostigamiento de que han sido víctimas los familiares del Sr. Lauro Juárez, estos ante el temor de una agresión han abandonado su comunidad. El Estado mexicano ofreció a los peticionarios protección a los familiares, dicha propuesta será analizada por los mismos. Asimismo, el gobierno del Estado de Oaxaca instó a que presentaran la denuncia correspondiente ante tales hechos.

### **Llamamiento urgente**

1663. El 4 de febrero de 2008, la Representante Especial envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. Mariana Villareal Contreras, miembro del Centro Diocesano para los Derechos Humanos “Fray Juan de Larios”, en el estado de Coahuila y el Obispo de Saltillo, Raúl Vera.

1664. Según la información recibida, el día 20 de diciembre de 2007, dos hombres habrían entrado en la oficina del Centro “Fray Juan de Larios” y habrían agredido a Mariana Villareal Contreras, quien se encontraba sola en el Centro. Los dos agresores habrían agarrado a la Sra. Villareal, empujándola al piso del servicio de la oficina, lastimando su cuello y cara. Tras la salida de los dos hombres, Mariana Villareal Contreras se habría enterado de que los agresores habían tirado los archivos de la organización al piso, aunque al parecer no se habrían llevado ningún documento. El Centro habría denunciado estos hechos ante el Fiscal de Coahuila pero no se dispone de información acerca del avance de la investigación.

1665. Entre octubre y noviembre de 2007, se habría recibido una llamada telefónica en el Centro, en la que la persona que llamaba preguntaba por la muerte de un sacerdote. Asimismo, se habría recibido un correo electrónico dando el pésame por la muerte de un miembro del personal del Centro, sin que ninguna de las dos ocasiones hubiera fallecido nadie. Desde el 18 de noviembre, un hombre habría visitado el Centro varias veces, amenazando de muerte al Obispo Raúl Vera y a otras persona del Centro. El Obispo Raúl Vera y el Centro “Fray Juan de Larios” trabaja desde 2006 en dos casos de violaciones de derechos humanos en el estado de Coahuila, reclamando justicia para las víctimas de violaciones cometidas por militares en la municipalidad de Castaños y para las familias de 65 mineros que murieron cuando se colapsó la mina de Pasta de Conchas tras una explosión.

1666. Se expresó preocupación que la agresión a Mariana Villareal Contreras y las amenazas en contra del Obispo Raúl Vera podrían estar directamente vinculadas con sus actividades en defensa de los derechos humanos en el estado de Coahuila.

### **Respuesta del Gobierno**

1667. Mediante carta fechada el 3 de noviembre de 2008 el Gobierno respondió al llamamiento urgente. La carta comunicó que tras la agresión sufrida el 20 de diciembre de 2007 por la señora Mariana Villareal Contreras, la policía ministerial de la



Procuraduría General de Justicia del estado de Coahuila (PGJ- Coah) acudió de manera inmediata a las oficinas del Centro Diocesano para los Derechos Humanos para entrevistarse con la señora Villarreal Contreras y recabar indicios e investigar. Al interrogar la autoridad investigadora a la Sra. Villarreal Contreras y a otras personas que se encontraban en el lugar, negaron los hechos.

1668. Sin embargo, posteriormente, el 4 de enero de 2008, la Sra. Villarreal Contreras se presentó ante la Agencia del Ministerio Público de la PGJ-Coah a denunciar supuestos hechos de lobo y lesiones.

1669. Con el fin de investigar lo sucedido, u en su caso proceder a sancionar a quien o quienes resulten responsables, la PGJ-Coah inició un averiguación, la cual se encuentra en trámite.

1670. La Sra. Villarreal Contreras no ha presentado queja ante la Comisión de Derechos Humanos del estado de Coahuila. La PGJ-Coah señaló que el Obispo Raúl Vera no se ha presentado ante las autoridades ministeriales para formular ninguna denuncia.

### **Llamamiento urgente**

1671. El 28 de febrero de 2008, la Representante Especial envió un llamamiento urgente, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. **Obtilia Eugenio Manuel**, la Sra. **Inés Fernández Ortega**, el esposo de ésta, el Sr. **Fortunato Prisciliano**, y su difunto hermano, el Sr. **Lorenzo Fernández Ortega**, dirigente de la Organización del Pueblo Indígena Me Phaa (OPIM) en el estado de Guerrero.

1672. La situación de la Sra. Obtilia Eugenio Manuel fue el objeto de comunicaciones enviadas por el Relator Especial sobre la independencia de magistrados y abogados, por el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, por el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y por la Representante Especial del Secretario-General para los defensores de los derechos humanos el 16 de febrero de 2005 (MEX 1/2005) y por el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y por la Representante Especial del Secretario-General para los defensores de los derechos humanos el 4 de mayo de 2005 (MEX 8/2005). Asimismo, el Sr. Fortunato Prisciliano fue objeto de un llamamiento urgente, emitido por el Relator Especial sobre la tortura, por el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, por la Relatora Especial sobre la violencia contra la mujer y por la Representante Especial del Secretario-General para los defensores de los derechos humanos, el 7 de septiembre de 2007 (MEX 25/2007).

1673. Según la información recibida, el 9 de febrero de 2008, el Sr. Lorenzo Fernández Ortega habría sido secuestrado por personas desconocidas y al día siguiente se habría

encontrado su cuerpo sin vida en un río en el municipio de Ayutla de los Libres. El cuerpo presentaba supuestamente señales de tortura. Según los compañeros del almacén donde trabajaba el Sr. Fernández, el 6 de febrero de 2008, tres días antes de su asesinato, habrían pasado tres hombres armados por el almacén, quienes tenían una lista de nombres en la que figuraba el del susodicho.

1674. A mediados de enero, el Sr. Lorenzo Fernández Ortega habría afirmado a su hermana y cuñado que temía por su seguridad y por la de otros miembros de la OPIM, pues se le habrían acercado desconocidos que le preguntaron por las actividades de la organización. El Sr. Fernández habría vuelto a comentar su preocupación con la Sra. Otilia Eugenio Manuel, otra integrante de la OPIM, el día 6 de febrero. En calidad de integrante de la OPIM, el Sr. Lorenzo Fernández Ortega había apoyado a los 14 hombres indígenas Me Phaa que afirman que en el año 1998, se les habría sometido a esterilización forzosa. Asimismo, el Sr. Fernández había trabajado para denunciar la violación de su hermana, Inés Fernández Ortega en 2002, supuestamente a manos de militares. Desde el asesinato de su hermano, Inés Fernández Ortega y su esposo, el Sr. Fortunato Prisciliano, habrían recibido llamadas en las que la persona que llamaba guardaba silencio.

1675. El día 9 de febrero, la Sra. Otilia Eugenio Manuel, objeto de amenazas desde el 2004 y recipiente de medidas de protección implementadas por la Comisión Interamericana de Derechos Humanos, habría recibido una llamada en que un voz femenina le habría dicho “Sé que tu eres Otilia, es mejor que calmes ya a tu gente, más vale que lo hagas porque ya está allá mi gente vigilándote”.

1676. Se alegó que el asesinato del Sr. Lorenzo Fernández Ortega, así como las amenazas en contra de la Sra. Otilia Eugenio Manuel, la Sra. Inés Fernández Ortega y el Sr. Fortunato Prisciliano podrían deberse a sus actividades en defensa de los derechos humanos, en particular los derechos de los indígenas. Asimismo, se expresó profunda preocupación tras el asesinato del Sr. Fernández, por la integridad física y psicológica de las demás personas mencionadas.

### **Llamamiento urgente**

1677. El 6 de marzo de 2008, la Representante Especial envió un llamamiento urgente, junto con la Relatora Especial sobre la violencia contra la mujer, señalando a la atención urgente del Gobierno la información recibida en relación con los Sres. **Jesús Manuel Grijalva** y **Gilberto Hernández Santiago**, abogados de derechos humanos del Comité de Liberación 25 de Noviembre, y la Sra. Alma Gómez Soto, defensora de derechos humanos e integrante de esta organización. El Comité fue establecido a raíz de unos enfrentamientos que tuvieron lugar entre un grupo de manifestantes y miembros de la policía en el estado de Oaxaca el 25 de noviembre de 2006, en los que fueron detenidas 159 personas. El Comité se creó para proporcionar asistencia jurídica a las víctimas y denunciar al Estado mexicano por supuesto genocidio, crímenes de lesa humanidad y violaciones de los derechos humanos cometidas en el estado de Oaxaca.

1678. Según la información recibida, el 22 de febrero de 2008, al llegar el Sr. Jesús Grijalva a su oficina en el centro de la Ciudad de Oaxaca, habría encontrado una nota anónima en el piso, amenazando de muerte a él y al Sr. Gilberto Hernández Santiago. El 24 de febrero de 2008, dos mujeres se habrían acercado a casa de la Sra. Alma Gómez Soto. Las mujeres habrían preguntado "que si ¿ahí viven Marx y Lenin?", refiriéndose a las tendencias políticas de la Sra. Gómez, identificándola como activista de izquierdas, a la que las autoridades habrían acusado de tratar de socavar al Estado mexicano durante unas manifestaciones ocurridas en el 2006. Cuando La Sra. Gómez cerró la puerta, las dos mujeres intentaron sin éxito forzar su entrada a la casa.

1679. Según se informó, tras anteriores hostigamientos y amenazas de muerte que habrían sufrido miembros del Comité de Liberación 25 de Noviembre en 2007, la Comisión Interamericana de Derechos Humanos falló que el Estado adoptara medidas cautelares a fin de asegurar la protección de éstos, pero hasta la fecha, sólo se les habrían proporcionado teléfonos celulares.

1680. Se alegó que el hostigamiento y las amenazas en contra de las personas arriba mencionadas podrían estar directamente vinculados a sus actividades en defensa de los derechos humanos. Se expresó profunda preocupación por la integridad física y psicológica de los Sres. Jesús Manuel Grijalva, Gilberto Hernández Santiago y de la Sra. Alma Gómez Soto.

### **Llamamiento urgente**

1681. El 10 de marzo de 2008, la Representante Especial envió un llamamiento urgente, junto con la Relatora Especial sobre la violencia contra la mujer, señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. **Dora María Ávila Betancourt**, integrante del Centro para los Derechos de la Mujer Nääxwiin, asociación civil en donde la susodicha trabaja en programas de atención a mujeres indígenas víctimas de violencia familiar y de salud sexual y reproductiva con jóvenes, en el municipio de Matías Romero, en el estado de Oaxaca. En 2006, se habría abierto un expediente a la Sra. Ávila Betancourt por su participación en la manifestación de Oaxaca. Asimismo, la comunicación fue en relación con el Sr. **Luis Fernando Canseco Girón**, maestro y ex-Secretario de la sección 22 del Sindicato Nacional de Trabajadores de la Educación (SNTE).

1682. Según la información recibida, el 7 de febrero de 2008, a las 8.20 de la mañana, un coche civil le habría seguido a la Sra. Dora María Ávila Betancourt cuando se desplazaba a la ciudad de Juchitán. Un hombre dentro del vehículo le habría mostrado una tarjeta diciéndole que se detuviera. La Sra. Ávila Betancourt habría parado cerca de la planta de Gas del Trópico, el hombre se habría bajado del coche y dicho: "Señora, muéstreme su identificación porque este auto está reportado como robado". Esta persona le habría dicho a la susodicha que abriera el capó del auto para que revisara el motor y que ella debía identificarse. Poco después, habría llegado un oficial de la Procuraduría General de la República (PGR), que habría dicho a la susodicha que los dos eran agentes

federales y que existía una orden para su aprehensión, mostrándole un documento en el que se veía su nombre.

1683. Los agentes habrían llevado a la susodicha a las oficinas de la PGR de Matías Romero, donde se habría encontrado también detenido el Sr. Luis Fernando Canseco Girón. Los agentes habrían avisado a ambos detenidos que los llevarían al médico para que certificara su estado de salud. Se informa que al salir del examen médico, el Comandante de la Agencia Federal de Investigación (AFI) le habría dicho a la abogada de la Sra. Ávila Betancourt que los llevarían al Centro de Readaptación Social para delitos del orden federal en Tehuantepec. Sin embargo, los policías habrían recibido una llamada y les habrían avisado a los detenidos que les trasladaban a las oficinas de la AFI de Salina Cruz.

1684. Según se informó, la Sra. Ávila Betancourt no habría podido avisar a su familia del traslado. Sus familiares y su abogada los habrían buscado en Tehuantepec antes de ir al Juzgado VII de Salina Cruz en búsqueda de una liberación negociada puesto que, durante las negociaciones con la Secretaría de Gobernación se había acordado anular todas las órdenes de aprehensión emitidas durante el conflicto de 2006. Tras ocho horas detenidos, ambas persona habrían sido liberadas con el aviso de presentarse por su propia voluntad ante el Juez del Juzgado VII de Salina Cruz, no obstante lo cual, el 17 de febrero de 2008, se dictó un auto de formal prisión contra la Sra. Ávila Betancourt. No se dispondría de información acerca del motivo de citada determinación judicial.

1685. Se alegó que el hostigamiento y detención de los susodichos podrían estar directamente vinculados con sus actividades en defensa de los derechos humanos y se expresó preocupación por su integridad física y psicológica.

### **Carta de alegaciones**

1686. El 3 de abril de 2008, la Representante Especial envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. **Yara Fernández Moreno**, estudiante de doctorado en ecología, investigadora y trabajadora del Zoológico “Miguel Álvarez del Toro” (ZOOMAT), en Tuxtla Gutiérrez, Estado de Chiapas.

1687. Según las informaciones recibidas, el 6 de febrero de 2008, la Sra. Yara Fernández Moreno habría encontrado varias notas periodísticas de carácter difamatorio y calumnioso pegadas en su lugar de trabajo a la vez que se habrían quitado varios informes sobre la deforestación de “El Zapotal”, reserva ecológica en Tuxtla Gutiérrez. Asimismo, el autor de las difamaciones habría acusado también a la Sra. Yara Fernández Moreno de “crear conflictos al Estado; involucrar el nombre del gobernador, Juan Sabines Guerrero; faltar el respeto a la investidura del jefe del Poder Ejecutivo del Estado y de congraciarse con organizaciones atípicas a la paz social de nuestro Estado.”

1688. Se alegó que el Instituto de Historia Natural y Ecología (IHNE), que empleaba a la Sra. Yara Fernández, Moreno la habría estado obligando con medios coercitivos y

jurídicos a que ella salga de las instalaciones del mismo y que se traslade a unas oficinas ubicadas fuera de El Zapotal. La susodicha habría declarado que no sería la primera vez que se ejercen medios coercitivos en su contra para intentar forzar su salida del ZOOMAT.

1689. Según las informaciones, estos hechos estarían relacionados con la denuncia hecha por la Sra. Yara Fernández Moreno sobre la deforestación de la reserva natural de “El Zapotal”. Según la Sra. Yara Fernández Moreno, la Dirección General del Instituto de Historia Natural y Ecología (IHNE) habría intervenido para que se otorgaran permisos a la empresa Constructora Sauce S.A. para la construcción de una urbanización de 7 hectáreas y de alta densidad poblacional en la zona de amortiguamiento de “El Zapotal”.

1690. Se alegó que el hostigamiento e intimidación de la Sra. Yara Fernández Moreno podrían estar directamente relacionados con sus actividades en defensa del medio ambiente y se expresó preocupación por su integridad física y psicológica.

### **Respuesta del Gobierno**

1691. Mediante carta fechada 9 de junio de 2008, el Gobierno respondió a la carta de alegaciones. La carta comunicó que el Estado no está en posibilidad de calificar los hechos pues de acuerdo a la información proporcionada por la Dirección de Asuntos Jurídicos de la Secretaría de Gobierno del estado de Chiapas, la Sra. Yara Fernández Moreno labora normalmente como investigadora del Zoológico “Miguel Álvarez del Toro”, Instituto de Historia Natural y Ecología (IHNE), en Tuxtla Gutiérrez, Estado de Chiapas.

1692. El Ministerio de Justicia del estado de Chiapas informó que la Sra. Fernández Moreno no se ha presentado ante las autoridades ministeriales ni ante la Comisión Estatal de Derechos Humanos, ni ante el Instituto de Historia Natural ninguna denuncia, no tiene registro de haber iniciado una averiguación previa.

1693. Como se ha señalado, a la fecha, no existe constancia de ningún tipo de queja o denuncia presentada por la Sra. Fernández Moreno. El Estado mexicano solicita al Relator Especial que invite a la Sra. Fernández Moreno que presente su denuncia ante las instancias competentes, para que estén en posibilidad de investigar los hechos.

### **Carta de alegaciones**

1694. El 8 de abril de 2008, la Representante Especial envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con los asesinatos del Sr. **Armando Villarreal Martha** y su hijo. El Sr. Villarreal Martha era dirigente de la Organización Agrodinámica Nacional (OAN), en el municipio de Nuevo Casas Grandes, Estado de Chihuahua. Asimismo, el susodicho era un líder de su comunidad reconocido por la defensa de los derechos de los trabajadores del sector agropecuario y de los campesinos y productores agrícolas.

1695. Según las informaciones recibidas, el 14 de marzo de 2008, el Sr. Armando Villarreal Martha viajaba en coche con su hijo en Nuevo Casas Grandes, cuando se les habrían disparado varias veces desde otro vehículo. Según se informó, el Sr. Armando Villarreal Martha habría resultado herido en la cabeza, y habría fallecido al llegar al hospital La Salle.

1696. Se informó que el difunto habría participado recientemente en el movimiento nacional de productores y campesinos que solicitaban al gobierno actual la revisión del Tratado de Libre Comercio de América del Norte (TLCAN), y que hace unas semanas habría participado en un plantón en las instalaciones de la Planta Petroquímica de Ciudad Camargo, con el fin de solicitar que los fertilizantes y agroquímicos fueran vendidos a los productores mexicanos a precios más accesibles.

1697. Se expresó preocupación que el asesinato del Sr. Armando Villarreal Martha podría estar directamente relacionado con sus actividades en defensa de los derechos humanos, en particular la promoción de los derechos de los campesinos y productores agrícolas.

### **Respuesta del Gobierno**

1698. Mediante carta fechada 31 de julio de 2008, el gobierno respondió a la carta de alegaciones. La carta informó que los hechos de las alegaciones presentadas son parcialmente ciertos. De acuerdo a la información proporcionada, aproximadamente a las 12:00 horas del 14 de marzo de 2008, el Sr. Villarreal Martha, fue lesionado con armas de fuego por sujetos desconocidos, cuando circulaba en su vehículo en compañía de uno de sus hijos y de un empleado. Después de la agresión, el Sr. Villarreal Martha fue trasladado a un centro hospitalario, falleciendo durante el trayecto. La Procuraduría General de Justicia del estado de Chihuahua (PGJ-Chi), inició una averiguación previa con el fin de esclarecer los hechos, y en su caso proceder a sancionar a quien o quienes resulten responsables.

1699. Asimismo, la carta comunicó que la Comisión Estatal de Derechos Humanos del estado de Chihuahua informó que no ha recibido queja que se relacione con la muerte del Sr. Villarreal Martha. En relación con la investigación iniciada, la carta comunicó que de manera inmediata, el Ministerio Público llevó a cabo las primeras diligencias consistentes en recabar todos aquellos indicios de interés hallados en el lugar donde sucedieron los hechos. La averiguación previa continúa en trámite, practicándose las diligencias necesarias para su debida integración, y en su momento se resolverá conforme a derecho.

### **Carta de alegaciones**

1700. El 14 de abril de 2008, la Representante Especial envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **Faustino Hernández Meza**, maestro y activista en el estado de Querétaro contra la nueva ley de Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado (ISSSTE) y los cambios que supone ésta para las condiciones laborales en México.

1701. De acuerdo con las informaciones recibidas, el 1 de abril de 2008, Sr. Faustino Hernández Meza habría sido detenido por agentes de la Agencia Federal de Investigación (AFI), cuando dejaba a sus hijos a las puertas de la escuela, en la ciudad de Querétaro. Los agentes habrían presentado una orden de aprehensión dictada por el juzgado del II distrito en el Estado de Querétaro, supuestamente por tenencia de cartuchos de uso exclusivo de las fuerzas armadas mexicanas que, según los agentes, se habrían encontrado en un registro realizado a su domicilio el 11 de julio de 2007. Dicho registro se habría efectuado sin que se encontrara nadie en la vivienda.

1702. El susodicho habría sido trasladado primero a las oficinas de la Procuraduría General de la República y luego al Centro de Readaptación Social (CERESO) de San José el Alto a la celda de indiciados. Posteriormente, habría sido llevado esposado de pies y manos al juzgado del II Distrito en el Estado de Querétaro para declarar. Después de dejar la fianza y multa de \$3,600.00 el susodicho habría sido devuelto al CERESO antes de ser dejado en libertad a las 20h00 aproximadamente.

1703. Se alegó que el proceso judicial contra el Sr. Faustino Hernández Meza podría estar directamente vinculado con sus actividades en defensa de los derechos humanos, en particular con su activismo por los derechos laborales en México. Asimismo, se expresó preocupación por su seguridad física y psicológica.

### **Respuesta del Gobierno**

1704. Mediante carta fechada el 16 de julio de 2008, el Gobierno respondió a la carta de alegaciones. La carta afirmó eran parcialmente ciertos los hechos manifestados por el señor Hernández. Fue detenido por agentes federales de investigación pero su detención fue con motivo de una orden de aprehensión debidamente fundada y motivada por un juez penal, por su probable responsabilidad en el delito de posesión de cartuchos de uso exclusivo de Ejército, Armada y Fuerza Aérea Mexicanos. El 12 de julio de 2007, los representantes de la Comisión Estatal de Derechos Humanos del estado de Querétaro recibieron a dos mujeres quienes solicitaron asesoría sobre el procedimiento de inicio de queja por supuestos hechos violatorios de derechos humanos infringidos en contra del señor Hernández Meza, con motivo de un cateo diligenciado en su domicilio particular. Al momento de cuestionarles sobre los hechos para determinar la procedencia de la queja y en su caso, su inicio, las señoras manifestaron no tener la certeza de que el cateo se hubiera realizado en casa del señor Hernández Meza, y que carecían de información sobre las circunstancias. Únicamente reiteraron su interés de buscar asesoría y dejar constancia en sus presunciones. La CEDH-Qro levantó la constancia CEDH/1548/2007/OD. Por su parte la Comisión Nacional de los Derechos Humanos informó que en el mes de agosto de 2008, inició un expediente de queja 2007/3009-1-SQ el cual fue concluido por orientación el 31 de octubre de 2007.

1705. El 14 de marzo de 2008, el Ministerio Público Federal solicitó al Juez Segundo de Distrito del estado de Querétaro librar orden de aprehensión en contra del señor Hernández por considerarlo probable responsable por el delito de posesión de cartuchos

de uso exclusivo de Ejército, Armada y Fuerza Aérea Mexicanos. En cumplimiento al mandato, el 1 de abril de 2008, tres elementos de la Agencia Federal de Investigación se presentaron a las afueras del domicilio particular del señor Hernández y al verlo, previa identificación, le mostraron una orden de aprehensión fundada y motivada, librada por un juez penal competente solicitando su detención por haberse acreditado su probable responsabilidad por el delito de posesión de cartuchos de uso exclusivo del Ejército, Armada y Fuerza Aérea Mexicanos. El señor Hernández fue conducido de manera inmediata al Centro de Readaptación Social “San José el Alto”. Durante el tiempo de su traslado, en ningún momento fue esposado de pies y manos, y se le permitió que realizara varias llamadas telefónicas a su abogado y familiares. Al llegar al centro de reclusión se le practicó un examen médico y se dio fe de su integridad física. Se le encontró consciente, orientado en las tres esferas y sin presencia de lesiones visibles al exterior de su cuerpo. Posteriormente el señor Hernández Meza fue puesto a disposición del Juez Segundo de Distrito del estado de Querétaro. El juez penal hizo de su conocimiento el delito del que se le acusaba y los denunciante que deponían en su contra. Asimismo se le hizo saber de los derechos con que contaba, tales como: no ser obligado a declarar en su contra, el derecho a gozar de una defensa adecuada, por sí, por abogado o por persona de su confianza y contar con las facilidades para solicitar todos aquellos datos necesarios para preparar su defensa.

### **Carta de alegaciones**

1706. El 30 de abril de 2008, la Representante Especial envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **Irineo Mújica Arzate**, organizador comunitario de Derechos Civiles para los Migrantes, en Arriaga, Estado de Chiapas.

1707. De acuerdo con las informaciones recibidas, el 31 de marzo de 2008, el Instituto Nacional de Migración (INM) y la Secretaría de Marina habrían llevado a cabo un operativo para detener migrantes centroamericanos, en Las Palmas, Niltepec, Estado de Oaxaca. Durante este operativo, el Sr. Irineo Mújica Arzate habría presenciado y captado fotográficamente presuntas agresiones de los migrantes que viajaban en el ferrocarril, así como testimonios y pruebas gráficas de la presunta violación de dos mujeres migrantes centroamericanas.

1708. Posteriormente, el susodicho habría sido detenido junto con los migrantes. A la hora de detenerle, el susodicho habría sido despojado de sus pertenencias, a excepción de la memoria de la cámara, la cual él pudo esconder. A continuación, el Sr. Irineo Mújica Arzate habría sido llevado a una estación migratoria, a pesar de que se habría identificado como reportero de nacionalidad mexicana y que, según se informa, las autoridades del INM de Tapanatepec, tenían conocimiento de sus labores de documentación sobre el flujo migratorio en la zona. El Sr. Irineo Mújica Arzate habría permanecido detenido durante cinco horas, antes de ser liberado en el municipio en Tapanatepec, Oaxaca.

1709. Se temía que la intimidación, el hostigamiento y la detención del Sr. Irineo Mújica Arzate puedan estar directamente relacionados con su trabajo en defensa de los derechos



humanos, en particular de los derechos de los migrantes en la zona fronteriza del sur de México. Asimismo, se expresó preocupación por la integridad física y psicológica del Sr. Irineo Mújica Arzate.

### **Respuesta del Gobierno**

1710. Mediante carta fechada el 31 de julio de 2008, el Gobierno respondió a la carta de alegaciones. La carta comunicó que de acuerdo con la carta de alegaciones, el 31 de marzo de 2008, tuvo lugar un operativo de control y verificación en el estado de Oaxaca, realizado por el Instituto Nacional de Migración (INM). Posteriormente, a los migrantes les fueron practicados dictámenes médicos en la estación migratoria del estado de Oaxaca. Los resultados de los exámenes señalaban que los migrantes presentaban algunas contusiones, laceraciones y demoabrasiones antiguas, pero no atribuibles al operativo.

1711. El INM informó que hasta el día de la carta no han recibido queja o denuncia en contra del personal adscrito a sus instituciones, no tampoco tienen conocimiento que durante el operativo se haya registrado algún tipo de violación a derechos humanos. Respecto a las supuestas violaciones sexuales en contra de las mujeres indocumentadas, el INM tampoco ha recibido queja o denuncia en contra de los agentes migratorios que intervinieron en el operativo.

1712. Con base a las notas periodísticas, fue que el INM inició de oficio una investigación por presuntos abusos cometidos en contra de inmigrantes indocumentados asegurados en la comunidad de las Palmas, Niltepec, Oaxaca, para verificar la veracidad de esos hechos.

1713. La investigación fue concluida por el órgano interno de control del INM resolviendo exonerar a los 11 agentes de migración que participaron en el operativo, al no comprobarse excesos de violencia contra los migrantes. Los migrantes fueron repatriados a sus países de origen después del procedimiento migratorio.

1714. El 24 de abril de 2008, representantes del INM enviaron una comunicación electrónica a la coordinadora del Centro de Derechos Humanos, "Fray Matías" solicitándole proporcionara la forma de comunicarse con el Sr. Mújica Arzate para entablar una conversación en relación con su presencia durante el operativo e investigar sobre las amenazas que dice le profirieron.

1715. Asimismo, la carta proporciona los detalles de la base legal de las acciones por los agentes del INM; su colaboración con instancias como la OEA, la CIM, la OIM, y el Instituto Nacional de las Mujeres (Inmujeres); su atención a menores migrantes; su programa de mejoramiento de las estaciones migratorias, su programa de migración para la frontera sur de México; su capacitación a servidores públicos y una descripción del acceso de los migrantes al sistema de impartición de justicia.

### **Llamamiento urgente**

1716. El 21 de mayo de 2008, la Relatora Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria y el Relator Especial sobre la independencia de magistrados y abogados, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con los Sres. **Natalio Ortega Cruz, Romualdo Santiago Enedina, Raúl Hernández Abundio, Orlando Manzanarez Lorenzo, Manuel Cruz Victoriano y Cuauhtémoc Ramírez**. El Sr. Ramírez es presidente, y las demás personas mencionadas integrantes de la Organización del Pueblo Indígena Me Phaa (OPIM) en la localidad de Ayutla de los Libres, Estado de Guerrero.

1717. Varios miembros de la OPIM fueron objeto de un llamamiento urgente emitido el 28 de febrero de 2008 por la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, tras el asesinato del Sr. Lorenzo Fernández Ortega, dirigente de la organización y de las amenazas proferidas contra varios miembros de la misma.

1718. De acuerdo con las informaciones recibidas, el 24 de abril de 2008, el Juzgado de Primera Instancia del Municipio de Ayutla de los Libres habría dictado un auto de formal prisión contra los cinco integrantes de la OPIM antes mencionados. La detención de los cinco se habría efectuado el 18 de abril, luego de que, el 11 de abril, fueron dictadas órdenes de aprehensión en su contra, así como contra otros 10 miembros de la OPIM, por su supuesta participación en el asesinato del Sr. Alejandro Feliciano García, cometido el 1 de enero de 2008. Según los informes, hasta la fecha, la investigación del asesinato no habría hecho mayores progresos.

1719. Según se informó, el juez se habría negado a recibir las declaraciones de los detenidos tras afirmar que no disponía del tiempo suficiente para leerlas, a pesar de que fueron entregadas antes del vencimiento del plazo correspondiente. Se había denunciado que, antes de conducirles a la prisión municipal, agentes de la policía habrían amenazado a los detenidos con matarles y torturarles. Estas cinco personas se encontrarían detenidas en el Centro de Readaptación Social de Ayutla de los Libres. No se les habría permitido prestar declaración hasta el 15 de mayo, tras la presentación de un recurso de amparo.

1720. Se alegó que la detención de estos cinco integrantes de la OPIM y los cargos formulados contra ellos podrían estar directamente relacionados con sus actividades legítimas para promover los derechos de las comunidades indígenas Me Phaa. Además se temía que su detención y las diligencias judiciales posteriores podrían formar parte de una política de hostigamiento sistemático y de criminalización en contra de las organizaciones indígenas y campesinas del Estado de Guerrero.

### **Llamamiento urgente**

1721. El 23 de mayo de 2008, la Relatora Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información

recibida en relación con la Hermana **Consuelo Morales Elizondo**, directora de la organización de derechos humanos Ciudadanos en Apoyo a los Derechos Humanos A.C. (CADHAC), y con otros miembros de la misma organización. CADHAC tiene su sede en la ciudad de Monterrey en el Estado de Nuevo León.

1722. De acuerdo con las informaciones recibidas, la Hermana Consuelo Morales habría sido seguida, vigilada y amenazada por varios hombres desconocidos en las últimas semanas. La CADHAC habría coordinado varias actividades de protesta contra la creación de un complejo residencial y de ocio en una zona de protección medioambiental denominada Parque Nacional Cumbres de Monterrey, las cuales habrían incluido una manifestación el 18 de mayo de 2008, en la que habrían participado alrededor de 400 personas.

1723. El 17 de mayo, un día antes de la protesta, el coche de la susodicha, tomado prestado por una amiga suya, habría sido adelantado por otro auto en el que viajaban tres hombres que habrían obligado a la mujer a detenerse. Uno de los hombres se habría bajado del vehículo para dirigirse hacia el auto de Consuelo Morales, mas al ver que no se trataba de la susodicha, se habría marchado. Posteriormente en las oficinas de CADHAC se habría recibido una llamada telefónica en la que se le habría advertido a la monja que no se acercara. El 19 de mayo, Consuelo Morales habría observado una furgoneta con cristales tintados aparcada delante de su domicilio, que se habría marchado media hora más tarde.

1724. Se alegó que la intimidación de la susodicha y las amenazas en contra de ella podrían estar directamente relacionadas con su trabajo en defensa de los derechos humanos, en particular el libre ejercicio de los derechos de libertad de expresión y de asamblea en el marco de la manifestación del pasado 18 de mayo. En vista de este hostigamiento, se expresó preocupación por la integridad física y psicológica de la Hermana Consuelo Morales así como la de los demás integrantes de la CADHAC.

### **Llamamiento urgente**

1725. El 26 de mayo de 2008, la Relatora Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, el Relator Especial sobre la independencia de magistrados y abogados y la Relatora Especial sobre la violencia contra la mujer, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. **Luz Estela Castro Rodríguez** (conocida como Lucha Castro), Directora del Centro de Derechos Humanos de las Mujeres, A.C. y abogada de la organización no gubernamental Justicia para Nuestras Hijas, quien trabaja en la defensa de los derechos de las mujeres en el contexto de la violencia de género y los femicidios en el Estado de Chihuahua.

1726. De acuerdo con las informaciones recibidas, el 14 de mayo de 2008, la Sra. Luz Estela Castro habría sido amenazada en dos ocasiones, a las 10 y luego a las 11 de la mañana, mediante llamadas a su teléfono celular. Tras estas ocurrencias, la Sra. Castro habría presentado una denuncia ante la Procuraduría estatal, donde habría solicitado que

se le otorgaran medidas de protección y que se realizara una investigación de los citados hechos. Desde el 14 de mayo la Sra. Lucha Castro estaría acompañada por dos agentes.

1727. El 13 de mayo, la Sra. Castro habría participado en una manifestación convocada por la ONG Justicia para Nuestra Hijas, con ocasión del quinto aniversario del asesinato de la joven Neyra Azucena Cervantes, quien fue asesinada en 2003, cuando tenía 19 años. Según se informa, esta amenaza también habría resultado a raíz de una declaración de la Sra. Castro, en la cuál se pronunció por la salida del ejército mexicano del Estado de Chihuahua. Anteriormente, la susodicha, en su calidad de abogada de la organización Justicia para Nuestras Hijas, se habría manifestado en contra del nuevo sistema de justicia penal que entró en vigencia a principios de 2008, el cual, según la Sra. Castro, no lograría una mayor protección de las mujeres, respecto a la violencia familiar.

1728. Cabía recordar que, según cifras de organizaciones de derechos humanos, más de 430 mujeres y niñas han sido asesinadas en el Estado de Chihuahua, junto con Ciudad Juárez, desde 1993 hasta la fecha, y que más de 40 estaban en paradero desconocido. De acuerdo con las recomendaciones de la Relatora Especial sobre violencia contra la mujer tras su visita a México en 2005 (E/CN.4/2006/61/Add.4), se instó al Gobierno de Su Excelencia a que investigue con la debida diligencia estos asesinatos y desapariciones forzadas, así como todos los supuestos actos de violencia contra la mujer, para poner fin a la impunidad de quienes cometen estos crímenes.

1729. En este contexto, se alegó que las amenazas en contra de la Sra. Castro podrían estar directamente relacionadas con su trabajo en defensa de los derechos humanos, y podrían formar parte de un intento de impedir sus actividades en defensa de los derechos de las mujeres. Se expresó profunda preocupación por la integridad física y psicológica de la Sra. Castro y todas las personas que trabajan en defensa de los derechos de las mujeres en el Estado de Chihuahua.

### **Respuesta del Gobierno**

1730. Mediante carta fechada 10 de junio de 2008, el gobierno respondió al llamamiento urgente. La carta comunicó que debido a la trascendencia de los asuntos mencionados en el llamamiento urgente, el gobierno de México procedió de inmediato a solicitar ante la Comisión Interamericana de Derechos Humanos la implementación de medidas cautelares, a favor de las señoras Luz Esthela Castro Rodríguez, Marisela Ortiz Rivera, María Luisa García Andrade y Norma Andrade. Asimismo, se está en espera de recibir información solicitada a las autoridades competentes. Una vez que se cuente con la información se hará de su conocimiento.

### **Llamamiento urgente**

1731. El 30 de mayo de 2008, la Relatora Especial, junto con el Vice-Presidente del Grupo de Trabajo sobre desapariciones forzadas o involuntarias, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con la intimidación en contra de la Asociación de Detenidos Desaparecidos y Víctimas de

Violaciones de Derechos Humanos en México, AFADEM-FEDEFAM, en particular en contra de la Sra. **Tita Radilla Martínez**, presidenta de AFADEM y el Sr. **Julio Mata Montiel**, Secretario Ejecutivo de AFADEM, quienes supuestamente estaban sufriendo intimidaciones por su labor como defensores de los derechos humanos que investigan y luchan contra las desapariciones forzadas.

1732. De acuerdo con la información recibida, el 25 de mayo del 2008 diez soldados del Ejército mexicano se habrían apostado frente a la sede de AFADEM-FEDEFAM, mientras los integrantes de esta agrupación salían de las oficinas para dirigirse hacia el zócalo para colocar una exposición fotográfica de desaparecidos durante la guerra sucia contrainsurgente, que el Ejército desplegó en Atoyac de Álvarez en Guerrero. Según la información recibida, la Sra. Tita Radilla Martínez y el Sr. Julio Mata Montiel habrían regresado dos veces a la oficina de AFADEM, y al verlos llegar los soldados habrían amartillado sus armas y quitado el seguro de las mismas.

### **Llamamiento urgente**

1733. El 4 de junio de 2008, la Relatora Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y la Relatora Especial sobre la violencia contra la mujer, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con las Sras **Marisela Ortiz Rivera, María Luisa García Andrade y Norma Andrade**, y las demás integrantes de Nuestras Hijas de Regreso a Casa, una organización que lucha contra la impunidad de los secuestros y los femicidios cometidos en Ciudad Juárez, Estado de Chihuahua. Las Sras Marisela Ortiz Rivera y María Luisa García Andrade fueron objeto de un llamamiento urgente emitido el 18 de julio de 2007 por el Relator Especial sobre la independencia de magistrados y abogados y la entonces Representante Especial del Secretario-General para los defensores de los derechos humanos tras haber recibido amenazas de muerte, el cual tuvo respuesta de parte de su Gobierno mediante carta con fecha del 17 de septiembre de 2007.

1734. Por otra parte, las graves y sistemáticas violaciones de los derechos de la mujer, y las amenazas contra quienes defienden éstos derechos en Chihuahua, fueron objeto de un llamamiento urgente enviado el 26 de mayo de 2008 por el Relator Especial sobre la independencia de magistrados y abogados, el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, la Relatora Especial sobre la situación de los defensores de los derechos humanos y la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias.

1735. De acuerdo con las informaciones recibidas, el pasado 25 de mayo las integrantes de la citada organización habrían recibido un correo electrónico acusándolas de beneficiarse de la película Ciudad del Silencio, la cual está basada en los femicidios ocurridos en Ciudad Juárez desde 1993. Asimismo, el correo habría proferido graves amenazas de violación y muerte contra las integrantes de la organización y sus hijas, nombrando a Marisela Ortiz Rivera y María Luisa García Andrade.

1736. La citada película se estrenó el pasado 16 de mayo en Ciudad Juárez. Según se informa, en los días previos al estreno, las integrantes de Nuestras Hijas de Regreso a Casa habrían recibido mensajes SMS a sus teléfonos celulares de carácter amenazante, alegando que éstas se estarían beneficiando de la película y afirmando que serían investigadas y encarceladas.

1737. Se alegó que los incidentes aquí resumidos podrían estar directamente relacionados con las actividades de las susodichas en defensa de los derechos humanos, en particular los derechos de la mujer. En vista de estas amenazas, se expresa seria preocupación por la integridad física y psicológica de las mujeres integrantes de Nuestras Hijas de Regreso a Casa, sobre todo aquellas aquí nombradas. Se reiteraron las opiniones expresadas en la comunicación del 26 de mayo de 2008 con respecto a la impunidad de la violencia contra la mujer en Ciudad Juárez, así como el llamado al Gobierno a investigar con la debida diligencia estos asesinatos y desapariciones, e identificar a quienes perpetran estos crímenes.

### **Respuesta del Gobierno**

1738. Mediante carta fechada 10 de junio de 2008, el gobierno respondió al llamamiento urgente. La carta comunicó que debido a la trascendencia de los asuntos mencionados en el llamamiento urgente, el gobierno de México procedió de inmediato a solicitar ante la Comisión Interamericana de Derechos Humanos la implementación de medidas cautelares, a favor de las señoras Luz Esthela Castro Rodríguez, Marisela Ortiz Rivera, María Luisa García Andrade y Norma Andrade. Asimismo, se está en espera de recibir información solicitada a las autoridades competentes. Una vez que se cuente con la información se hará de su conocimiento.

### **Carta de alegaciones**

1739. El 24 de junio de 2008, la Relatora Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y la Relatora Especial sobre la violencia contra la mujer, envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. **Lydia Cacho Ribeiro**. La Sra. Cacho es escritora, periodista, y Presidenta del Centro de Crisis para Víctimas, Centro Integral de Atención a las Mujeres (CIAM), una organización para la protección de las víctimas de la violencia y la explotación sexual, en Cancún, Estado de Quintana Roo.

1740. La Sra. Cacho Ribeiro había sido objeto de varias comunicaciones emitidas por titulares de mandato; de llamamientos urgentes emitidos el 23 de febrero y el 18 de julio de 2005 por el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía; la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias y la antigua Representante Especial del Secretario-General para los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión; de un llamamiento urgente emitido por éstos dos últimos, el 29 de diciembre de 2005 y de

un llamamiento urgente emitido el 24 de mayo de 2007 por el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía; la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias y la antigua Representante Especial del Secretario-General para los defensores de los derechos humanos.

1741. Estas cuatro comunicaciones recibieron una respuesta de parte del Gobierno de Su Excelencia mediante carta con fecha de 23 de diciembre de 2005. Por tanto, la Relatora Especial pidió al Gobierno que proporcionara una respuesta a esta comunicación a la mayor brevedad.

1742. De acuerdo con las informaciones recibidas, el 2 de junio de 2008, el juez Benjamín Navarrete del estado de Quintana Roo se habría negado a emitir órdenes de aprehensión contra funcionarios y ex servidores públicos del estado de Puebla, implicados en acusaciones contra Lydia Cacho, efectivamente cerrando la investigación del caso de la periodista. El juez habría afirmado que su decisión se debía a que su jurisdicción no extendía a los funcionarios de otro estado.

1743. La Procuraduría General de la República había solicitado que el juez de Quintana Roo emitiera los órdenes de captura contra diversos funcionarios del estado de Puebla; inter alia la ex procuradora y un ministerio público estatal por presunta manipulación de la documentación para la detención de la periodista. Asimismo, se habría solicitado la emisión de órdenes de captura contra un comandante y agentes judiciales, quienes habrían detenido a Lydia Cacho de manera arbitraria en Quintana Roo el 16 de diciembre de 2005 para posteriormente trasladarla a Puebla, para afrontar un proceso penal por difamación, denunciado por el empresario Kamel Nacif, quien había sido acusado por la periodista de formar parte de una red de pornografía infantil.

1744. Se alegó que la detención de la Sra. Cacho Ribeiro podría haber estado relacionada con sus actividades en defensa de los derechos humanos, en particular su defensa de los derechos de las víctimas de la violencia y la explotación sexual en México y se espera que los responsables de su detención no gocen de impunidad. Asimismo, se reiteró la preocupación expresada en comunicaciones anteriores por la seguridad e integridad física de la Sra. Cacho Ribeiro

### **Carta de alegaciones**

1745. El 23 de junio de 2008, la Relatora Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **Cristóbal Martínez Ortega**, funcionario municipal del pueblo de San Antón, municipio de Cuernavaca y uno de los líderes de un grupo de ciudadanos y ciudadanas que se opone a la construcción de un vertedero en la zona, afirmando que la ubicación del vertedero perjudicaría el medio ambiente local y contaminaría los recursos de agua de la zona.

1746. De acuerdo con la información recibida, el 11 de junio de 2008, Cristóbal Martínez habría sido interceptado cuando viajaba en su automóvil por cuatro hombres que viajaban en una furgoneta blanca sin matrícula. El susodicho habría participado poco antes en una conferencia de prensa contra la construcción del vertedero. Los hombres, que habrían estado armados y se habrían identificado como agentes de la policía federal, le habrían dicho: “a ti te andábamos buscando”, y le habrían obligado a subir en la furgoneta.

1747. Una hora después, se le habría encontrado a Cristóbal Martínez al lado de la carretera, atado y amordazado, sangrando por una herida en la cara e inconsciente. Habría sufrido fracturas en un brazo, una rodilla y un tobillo, las cuales serían resultado de golpes propinados con una barra de metal. El susodicho estaría recibiendo tratamiento en un hospital local. Se habrían presentado denuncias oficiales ante la Procuraduría del estado y ante la Comisión de Derechos Humanos del estado.

1748. Se expresó profunda preocupación que el ataque contra el Sr. Cristóbal Martínez Ortega podría estar directamente relacionado con sus actividades en defensa de los derechos humanos, en particular sus acciones de protesta a fin de defender el medioambiente de su localidad; y que podría formar parte de un intento de intimidar al grupo de personas opuestas al citado proyecto. En vista de lo aquí resumido, se expresó profunda preocupación por la integridad física y psicológica del Sr. Martínez Ortega.

### **Respuesta del Gobierno**

1749. Mediante carta fechada 29 de agosto de 2008, el gobierno respondió al llamamiento urgente. La carta informó que, de acuerdo con los hechos del llamamiento urgente, el 11 de junio de 2008, cuando circulaban en un vehículo por las calles de la Colonia San Antón, Morelos, Cuernavaca, el Sr. Martínez Robles en compañía del Sr. Bernardo Hernández Salinas fueron interceptados por cinco sujetos desconocidos, quienes al parecer se identificaron como agentes federales de investigación de la Procuraduría General. El Sr. Martínez Robles refirió que fue privado de su libertad aproximadamente por un término de cinco horas y lesionado gravemente por éstos sujetos. Considera que el motivo de las agresiones sufridas en su contra pudiera tener relación por su actividad como ayudante del Presidente Municipal de San Antón, Cuernavaca, Morelos.

1750. La Procuraduría General de Justicia del estado de Morelos (PGJ Mor) inició la averiguación previa. El 12 de junio de 2008, la Comisión Estatal de Derechos Humanos del Estado de Morelos (CEDH-Mor) inició de oficio la queja, y ordenó a la PGR-Mor implementar medidas adecuadas para salvaguardar la vida e integridad física del Sr. Martínez Robles, sus familiares y sus amigos.

1751. La averiguación previa y la queja, aún se encuentran en la etapa de análisis para emitir la determinación que conforme a derecho proceda.

### **Carta de alegaciones**



1752. El 24 de junio de 2008, la Relatora Especial envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. **Reyna Ramírez**, miembro de la Comisión de Derechos Humanos y Laborales del Valle de Tehuacán (CDHLVT), en el Estado de Puebla.

1753. De acuerdo con la información recibida, el 12 de junio de 2008 la Sra. Reyna Ramírez habría sido agredida física y verbalmente en la Junta Local de Conciliación de Arbitraje de Tehuacán por un individuo desconocido, quien habría golpeado a la susodicha y proferido amenazas.

1754. Se expresa preocupación que la agresión de la Sra. Ramírez y las amenazas en su contra podría estar directamente relacionada con sus actividades en defensa de los derechos humanos, en particular en su calidad de miembro de la CDHLVT. Tras lo aquí resumido, se expresa preocupación por la integridad física y psicológica de la Sra. Ramírez, así como la de los demás miembros de la CDHLVT.

### **Respuesta del Gobierno**

1755. Mediante carta fechada 29 de agosto de 2008, el gobierno respondió al llamamiento urgente. La carta informó que el 11 de junio de 2008, Sra. Ramírez Sánchez denunció supuestos hechos de amenazas y lesiones ante el Ministerio Público, dando inicio a una investigación. La investigación continúa abierta para su perfeccionamiento. Asimismo, la carta comunicó que la medida de protección implementada por el Estado mexicano para salvaguardar la vida e integridad de la Sra. Ramírez Sánchez es la de llevar a cabo una investigación exhaustiva respecto de los hechos denunciados.

### **Llamamiento urgente**

1756. El 7 de julio de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos, el Relator Especial sobre los derechos humanos de los migrantes, y el Relator Especial sobre la promoción de la libertad de opinión y de expresión enviaron un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el padre **Alejandro Solalinde Guerra**, coordinador de la Pastoral de Movilidad Pacífico Sur del Episcopado Mexicano y director del refugio para migrantes indocumentados en Ixtepec, Oaxaca, Hermanos en el Camino. El Padre Alejandro Solalinde Guerra, ha denunciado públicamente en varias ocasiones las violaciones de derechos humanos presuntamente cometidas por miembros de la policía y de las fuerzas de seguridad en contra de migrantes en México.

1757. De acuerdo con las informaciones recibidas, el 24 de junio, aproximadamente cuarenta personas – entre ellos miembros de la policía, de las fuerzas de seguridad, y de las autoridades de Ixtepec – habrían entrado sin permiso en el refugio Hermanos en el Camino y habrían amenazado con incendiarlo en el plazo de cuarenta y ocho horas si el centro no fuera cerrado. Las autoridades locales habrían justificado su sugerencia de

cerrar o reubicar el refugio con el argumento de que “desde la llegada de los migrantes a esta localidad han aumentado los problemas de delincuencia e inseguridad”.

1758. Se expresó preocupación que la amenaza de incendiar el refugio Hermanos en el Camino podría estar directamente relacionada con las actividades del padre Alejandro Solalinde Guerra, en particular con el refugio que ofrece a migrantes en Ixtepec. En vista de lo aquí resumido, se expresó preocupación por la integridad física y psicológica del padre Alejandro Solalinde Guerra y la de los migrantes hospedados en el refugio Hermanos en el Camino. Estos actos de hostigamiento, de ser confirmados, se enmarcan en un contexto de gran vulnerabilidad de los migrantes en México que amenaza también aquellos que trabajan para la defensa de sus derechos.

### **Carta de alegaciones**

1759. El 21 de julio de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **Abdallán Guzmán Cruz**, integrante de la fundación Diego Lucero AC en Morelia, Estado Michoacán, México. La Fundación Diego Lucero AC es una organización que se dedica a la protección y la promoción de los derechos humanos de los detenidos desaparecidos en México.

1760. De acuerdo con las informaciones recibidas, el 7 de julio de 2008, habría habido un allanamiento en la casa del Sr. Abdallán Guzmán Cruz. Se habrían llevado documentos e información sobre cinco familiares detenidos del Sr. Abdallán Guzmán Cruz que habrían desaparecido en julio de 1974, así como libros que se habrían considerado subversivos en el pasado, 60 mil pesos y unos anillos. Sin embargo no se habría llevado otra propiedad de valor.

1761. Se expresó preocupación que el allanamiento en la casa del Sr. Abdallán Guzmán Cruz y el robo de información sobre su trabajo podrían estar relacionados con sus actividades en defensa de los derechos humanos, en particular su investigación de casos de detenidos desaparecidos en México. En vista de lo aquí resumido, se expresó preocupación por la integridad física y psicológica del Sr. Abdallán Guzmán Cruz.

### **Llamamiento urgente**

1762. El 22 de julio de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos, el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y el Relator Especial sobre la independencia de jueces y abogados, señalando a la atención urgente del Gobierno la información recibida en relación con los Sr.s **Manuel Cruz Victoriano, Orlando Manzanarez Lorenzo, Natalio Ortega Cruz, Raúl Hernández Abundio y Romualdo Santiago Enedina**, todos integrantes de la Organización del Pueblo Indígena Me'phaa (OPIM) quienes fueron detenidos el 17 de abril de 2008. Estos integrantes de la

OPIM fueron objeto de un llamamiento urgente emitido el 21 de mayo de 2008. Hasta la fecha no se ha recibido una respuesta de su gobierno.

1763. Según las nuevas informaciones recibidas, el 7 de julio de 2008, los cinco detenidos habrían presentado el amparo Número 982/2008 ante la Justicia Federal como reclamación en contra del auto de formal prisión que el Juez Mixto de Primera Instancia les habría dado el 23 de abril de 2008 por el supuesto homicidio del Sr. Alejandro Feliciano García. Aunque no habría recibido suficiente evidencia el Juez Mixto de Primera Instancia de Ayutla, supuestamente bajo presiones políticas, habría sometido a los integrantes de la OPIM a un procedimiento de diez meses durante los que permanecerían en detención. Sin embargo, el 9 de julio de 2008 tres testigos habrían presentado nueva evidencia que habría probado que el expediente en contra de los detenidos habría sido fabricado. El 24 de julio de 2008 la Juez Octavo de Distrito de Acapulco dará su decisión sobre el amparo presentado por dichos integrantes de la OPIM.

1764. Además, la Comisión Interamericana de Derechos Humanos (CIDH) habría solicitado al Estado Mexicano que amplíe a favor de los cinco indígenas de El Camalote presos en Ayutla, las medidas cautelares que otorgó a líderes e integrantes de la OPIM desde el año 2005. En su resolución del pasado viernes 27 de junio, la CIDH también habría pedido extender las medidas de seguridad necesarias para líderes en comunidades y miembros de la OPIM que tienen orden de aprehensión por el mismo delito, así como para aquellos otros integrantes que tienen el carácter de líderes comunitarios y un trabajo importante en la organización,

1765. Se expresó preocupación que la detención de los cinco integrantes de la OPIM y los cargos contra ellos podrían estar relacionados con sus actividades, en particular su trabajo en defensa de los derechos de las comunidades indígenas Me'phaa. También se expresó preocupación que la acción judicial contra ellos podría formar parte de un hostigamiento sistemático en contra de las organizaciones indígenas y campesinas del Estado de Guerrero.

### **Carta de alegaciones**

1766. El 14 de agosto de 2008 la Relatora Especial sobre la situación de los defensores de los derechos humanos envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con las descalificaciones públicas contra el **Centro de Justicia para la Paz y el Desarrollo** (CEPAD), una organización no gubernamental (ONG) que se dedica a la defensa de los derechos humanos en el Estado de Jalisco, México. El CEPAD es miembro del Colectivo de Organizaciones Civiles de Jalisco y de la Red Nacional de Organismos Civiles de Derechos Humanos “Todos los derechos para todas y todos”.

1767. En septiembre de 2007, el CEPAD asumió la defensa del caso de una joven y su familia después de que la madre de dicha joven entregara una denuncia a las instalaciones de la ONG. Según la denuncia, la joven fue invitada a fiestas donde adultos, entre los cuales había funcionarios públicos de Jalisco, obligaron que ella y otras jóvenes tomaran

alcohol y drogas, y tuvieran relaciones sexuales. Lo que pasó en estas fiestas supuestamente fue fotografiado y grabado en video con teléfonos móviles.

1768. Según las informaciones recibidas, en diciembre de 2007, el CEPAD habría presentado una formal denuncia contra ciertos funcionarios públicos de Jalisco. La denuncia habría acusado a los funcionarios públicos de delitos de pornografía, explotación sexual y corrupción de menores, prostitución, y delincuencia organizada. También el CEPAD habría pedido que la Comisión Nacional de Derechos Humanos proporcionara medidas cautelares para asegurar la vida y la integridad física de la joven y de su familia. El 13 de diciembre de 2007, el CEPAD y la Red Nacional de Organismos Civiles de Derechos Humanos “Todos los Derechos para Todas y Todos” habrían pedido que la Comisión Inter-americana de Derechos Humanos (CIDH) proporcionara las mismas medidas cautelares para la joven y su familia. El 12 de febrero de 2008, la CIDH habría otorgado estas medidas y habría pedido al Gobierno Mexicano que proporcionara información sobre actos judiciales para esclarecer las acusaciones contra los funcionarios públicos de Jalisco.

1769. En los días siguientes, el Ombudsman de la Comisión Estatal de Derechos Humanos de Jalisco habría descalificado públicamente el trabajo del CEPAD. El 12, el 13, y el 14 de febrero de 2008 habría acusado a la organización de lucrar, porque recibe fondos extranjeros, y de desinformar a la sociedad de Jalisco.

1770. Se expresó preocupación que estas descalificaciones contra el CEPAD podrían estar directamente relacionadas con las actividades legítimas del CEPAD en la defensa de los derechos humanos, en particular su trabajo para investigar supuestas violaciones de derechos humanos por funcionarios públicos de Jalisco. También se expresó preocupación que estas descalificaciones pudieran hacer daño a la reputación pública del CEPAD y así pudieran tener un efecto negativo sobre el trabajo de la ONG.

### **Llamamiento urgente**

1771. El 21 de agosto de 2008 la Relatora Especial sobre la situación de los defensores de los derechos humanos, el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, y el Relator Especial sobre los efectos nocivos para el goce de los derechos humanos del traslado y vertimiento ilícitos de productos y desechos tóxicos y peligrosos enviaron un llamamiento, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **Dante Valdez**, maestro de enseñanza primaria. El Sr. Dante Valdez es uno de los líderes en la organización de protestas pacíficas para defender los derechos medioambientales y a la tierra de la comunidad indígena de Huizopa contra las actividades de una empresa minera. Según se ha alegado, dicha empresa ocupaba más tierras que las que tenía derecho a ocupar y causaba daño al medioambiente local y al suministro de agua.

1772. Según las informaciones recibidas, el 13 de agosto de 2008, el Sr. Dante Valdez habría sido atacado por un grupo de aproximadamente 30 personas en una escuela donde participaba en un curso de formación para maestros. La mayoría de los miembros de dicho grupo trabajaría para una minera local. El grupo habría ingresado a la escuela de Madera, Estado de Chihuahua, y le habría propinado golpes de pie y empujones al Sr. Dante Valdez, diciéndole que no se metiera en sus asuntos.

1773. El Sr. Dante Valdez denunció el ataque a la Procuraduría del Estado. Según se ha informado, todavía no se habrían iniciado investigaciones policiales sobre el caso.

1774. Se expresó preocupación que el ataque contra el Sr. Dante Valdez podría estar relacionado con sus actividades pacíficas en la defensa de los derechos medioambientales y a la tierra de la comunidad indígena de Huizopa. Se expresó preocupación por la integridad física y psicológica del Sr. Dante Valdez, así como los demás manifestantes que defendían la tierra de la comunidad de Huizopa.

### **Carta de alegaciones**

1775. El 29 de agosto de 2008, la Raportora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión enviaron una carta de alegaciones, señalando a la atención del Gobierno la información recibida en relación con el hostigamiento de los Sres. **Enrique Torres García** y **José Armando González**, Presidente y Secretario, respectivamente, de la Asamblea Permanente de Ejidatarios de la comunidad del Ejido Huizopa de la Municipalidad de Maderas, Estado de Chihuahua, y otros Ejidatarios. La Asamblea Permanente fue organizada para iniciar un diálogo directo con la empresa minera canadiense Minefinders con el propósito de defender los derechos a la tierra y a los recursos naturales de la comunidad del Ejido Huizopa. La empresa Minefinders ocupa supuestamente 3.498 hectáreas de la tierra de esta comunidad, aunque en 2006 firmó un contrato, que no era legalmente válido según los Ejidatarios, para el uso de 1.200 hectáreas de esta tierra.

1776. El 21 de agosto de 2008, titulares de varios mandatos enviaron un llamamiento urgente a su Gobierno en relación con un ataque perpetrado contra el Sr. Dante Valdez, que habría estado motivado por su trabajo para defender los derechos medioambientales de la comunidad Ejido Huizopa contra actividades mineras en la zona. Aunque todavía no se ha recibido una respuesta de su Gobierno, se entiende que hasta la fecha no se ha integrado la averiguación previa de la denuncia formal presentado por el Sr. Dante Valdez ante el Ministerio Público.

1777. Según las nuevas informaciones recibidas, el 26 de mayo de 2008, la Asamblea Permanente habría organizado una manifestación durante la cual se habría bloqueado la entrada principal de Minefinders. La empresa habría recibido advertencias de la Asamblea Permanente antes de la manifestación, pero no habría contestado. El Gobierno Federal habría desplegado fuerzas militares y policía estatal para desbloquear la entrada y

los Sres. Enrique Torres García y José Armando González fueron detenidos. Fueron liberados el mismo día, pero sus procesos judiciales siguen pendientes de trámite.

1778. La Asamblea Permanente habría continuado con sus manifestaciones pacíficas sin bloquear la entrada principal de la empresa minera. Según habrían constatado tres diputados federales de las Comisiones Legislativas de Asuntos Indígenas, Medio Ambiente, Seguridad Pública y Reforma Agraria de la Cámara de Diputados después de una visita al Estado de Chihuahua, el Gobierno Federal y el Estatal estarían utilizando la fuerza pública para intimidar a los Ejidatarios. Además, miembros de la policía estarían utilizando instalaciones de la empresa y elementos del Ejército mexicano se estarían trasladando en vehículos de Minefinders. Los Diputados Federales también habrían documentado que la empresa ha realizado su trabajo ilegalmente y que este trabajo generará daños ambientales irreversibles que ya se están empezando a observar, que afectarán a gran parte de la región, y de los que no fueron informados los Ejidatarios.

1779. Se expresó preocupación que la acción legal contra los Sres. Enrique Torres García y José Armando González y la intimidación contra los Ejidatarios podrían estar relacionadas con sus actividades legítimas para defender sus derechos a la tierra y a los recursos naturales. Se expresó preocupación que lo aquí resumido se enmarcara en un contexto de hostigamiento y vulnerabilidad de los defensores de los derechos medioambientales en esta zona de México.

### **Llamamiento urgente**

1780. El 5 de septiembre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión enviaron un llamamiento urgente, señalando al Gobierno la información recibida en relación con la intimidación contra la Sra. **Martha Contreras Estrada** y otros integrantes del Movimiento de Resistencia Civil (MRC). La Sra. Martha Contreras Estrada y otros integrantes del MRC habían contribuido a la organización de una manifestación pacífica para pedir que las autoridades investigaran la muerte del Sr. José Gómez Estrada y los malos tratos supuestamente sufridos por el Sr. Remigio Hernández Arellano a manos de la Policía Municipal de Benemérito de las Américas, Estado de Chiapas.

1781. De acuerdo con las informaciones recibidas, el 9 de agosto de 2008, los Sres. José Gómez Estrada y Remigio Hernández Arellano habrían sido detenidos. Miembros de la policía habrían maltratado al Sr. Remigio Hernández Arellano y, el 12 de agosto de 2008, el cuerpo del Sr. José Gómez Estrada se habría encontrado sin vida.

1782. El 13 de agosto de 2008, la manifestación organizada por la Sra. Martha Contreras Estrada y otros integrantes del MRC, así como la familia del difunto, habría tenido lugar. Aproximadamente a las 13h00, un funcionario del Ayuntamiento cuya identidad es conocida se habría acercado a la Sra. Martha Contreras Estrada, advirtiéndole “Martha: ya no te metas de lleno [a la manifestación] porque ya te tienen en la lista de que los van a tronar, y estas encabezando esta lista” [sic.]. Aproximadamente 15 minutos más tarde,

el Presidente Municipal de Benemérito de las Américas habría llamado telefónicamente a la Sra. Martha Contreras Estrada, diciéndole “Martha... quiero que ya le baje de huevos, sino yo se los voy a bajar... porque tu eres la que esta encabezando el movimiento... Yo te puedo procesar, sino te voy a desaparecer... No voy hablar con nadie más que con los dolientes... Que le quede claro que conmigo no se juega y si es preciso yo le pongo el delito y de que la trabo, la trabo” [sic.].

1783. Durante el funeral del Sr. José Gómez Estrada, el 14 de agosto de 2008, otro funcionario municipal cuya identidad es conocida habría amenazado a varios integrantes del MRC, diciéndoles “mañana van a rodar cabezas, tengan cuidado”. Ese día vehículos habrían patrullado por la casa de la Sra. Martha Contreras Estrada. El Presidente Municipal se habría encontrado entre los que viajaban en los vehículos.

1784. Se expresó preocupación que la intimidación contra la Sra. Martha Contreras Estrada y los otros integrantes del MRC podría estar relacionado con su protesta en contra de las violaciones de derechos humanos supuestamente sufridos por los Sres. José Gómez Estrada y Remigio Hernández Arellano. Se expresó preocupación por la integridad física y psicológica de la Sra. Martha Contreras Estrada, de los demás integrantes del MRC, y de los familiares del Sr. José Gómez Estrada que también contribuyeron a la organización de la manifestación.

### **Carta de alegaciones**

1785. El 18 de septiembre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos, el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias enviaron una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con un allanamiento en la casa del Sr. **Abdallán Guzmán Cruz**. Hasta la fecha no se ha recibido respuesta de su Gobierno.

1786. De acuerdo con las informaciones recibidas, el 19 de agosto de 2008, aproximadamente a las 21h30, seis soldados se habrían arrimado al vehículo del Sr. Abdallán Guzmán Cruz cuando él y su esposa habrían estado llegando a su casa. Mientras tanto otros 20 soldados habrían estado observando a una distancia de aproximadamente 30 metros. Los soldados habrían ordenado que el Sr. Abdallán Guzmán Cruz y su esposa se bajaran del coche y que se pagaran a la pared para un cateo a ver si llevaban armas. Los soldados sólo habrían dejado que el Sr. Abdallán Guzmán Cruz metiera su vehículo cuando éste habría autorizado una inspección de la casa para buscar armas y droga, aunque no le habrían mostrado ninguna orden de registro. Los soldados habrían llevado a cabo una inspección de la casa y se habrían retirado de allí aproximadamente a las 23h00

1787. Se expresa preocupación que la inspección de la casa del Sr. Abdallán Guzmán Cruz, así como el cateo de él y de su esposa, podría estar relacionada con sus investigaciones de casos de detenidos desaparecidos en México. Se expresa gran preocupación por la integridad física y psicológica del Sr. Abdallán Guzmán Cruz, así

como la de su familia. Dado que supuestamente había un allanamiento en la casa del Sr. Abdallán Guzmán Cruz el 7 de julio de 2008 y el Sr. José Francisco Paredes Ruiz, otro activista de la Fundación “Diego Lucero A.C.”, supuestamente fue desaparecido en septiembre de 2007, el incidente resumido arriba se enmarca en un contexto de gran vulnerabilidad para los defensores de los derechos humanos en Michoacán.

### **Carta de alegaciones**

1788. El 29 de octubre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con la Licenciada **Cristina Auerbach Benavides**, integrante del Equipo Nacional de Pastoral Laboral. Como se recordará, el 19 de febrero de 2006, 65 mineros murieron a consecuencia de una explosión en la mina de carbón de Pasta de Conchos, Estado de Coahuila, presuntamente debida a negligencia de la empresa a la que pertenecía la mina. Junta con el Equipo Nacional de Pastoral Laboral, la Lic. Auerbach Benavides trabaja en busca de justicia para las familias de los que murieron en la explosión.

1789. El 4 de febrero de 2008, la entonces Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos envió un llamamiento urgente a su Gobierno en relación a dos defensores de los derechos humanos que trabajaban en busca de justicia para las familias de las víctimas de la explosión. No se ha recibido respuesta.

1790. De acuerdo con las informaciones recibidas, el 19 de junio de 2007, luego de participar en una conferencia de prensa sobre el caso de la mina de Pasta de Conchos, la Lic. Auerbach Benavides fue atacada por dos hombres. Uno de ellos le apuntó con una pistola y tomó las llaves de su coche. El otro le golpeó en la cabeza. Los agresores partieron con el coche, en el que se encontraban documentos relacionados con el caso. El 4 de septiembre de 2007, unos individuos ingresaron en la oficina del equipo legal de la Lic. Auerbach Benavides. Revolvieron los documentos en la oficina y se llevaron un ordenador portátil.

1791. Recientemente, el 10 de septiembre de 2008, le bajaron la presión a los neumáticos de su coche. Al acudir a un taller de reparación, se observó que las tuercas de las ruedas habrían sido intencionalmente aflojadas. Este incidente ocurrió mientras la escolta de la Lic. Auerbach Benavides estaba de baja por enfermedad y cuando ella acaba de mudarse de residencia por razones de seguridad.

### **Observaciones**

1792. La Relatora Especial agradece las respuestas proporcionadas por el Gobierno de México y expresa su satisfacción por el hecho de que se hayan iniciado investigaciones en varios de los casos traídos a la atención del Gobierno por la Relatora. La Representante Especial expresa también su satisfacción por los procesos de protección que se han implementado en varios casos.



1793. A pesar de estos progresos, la Relatora Especial está preocupada por el hecho de que sigue recibiendo información en relación con graves violaciones contra los defensores de derechos humanos, y especialmente por los casos que se refieren a los defensores de los derechos de los pueblos indígenas y de los defensores que trabajan por los derechos de las mujeres.

1794. La Representante Especial insta al Gobierno a que proporcione información adicional y resultados concretos de las investigaciones mencionadas en las respuestas enviadas, y solicita información sobre las comunicaciones que aún no han sido respondidas.

## Mongolia

### Urgent appeal

1795. On 27 November 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal regarding Ms **Gelegiin Baasan**, leader of the *Free Elder's Union* and a human rights defender since 2000, who has been involved in the movement which developed in the aftermath of the events following the announcement of the State of Emergency by the Government on 1 July 2008, during which four people were killed and some 700 arrested. Ms Baasan has participated in campaigns for the rights of those who remain in detention.

1796. Events which occurred during the aforementioned State of Emergency were the subject of an allegation letter sent to the Government by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, on 19 August 2008.

1797. According to information received, on 18 November 2008, at approximately 3.30 p.m., Ms Baasan was arrested in Ulaanbaatar, while attending an 'open door day' organized annually by the Ministry of Justice. Ms Baasan along with a group of approximately 100 family members representing those who were arrested during the 1 July events (approximately 230 people remain in detention, some having been sentenced to between 4 and 7 years imprisonment, including 8 minors) had gathered outside the Ministry. The family members had requested a meeting with the Minister. When the Minister did not appear, police officers surrounded the building and requested that the group leave the premises. As the gathering was peacefully dispersing, Ms Baasan was reportedly approached by a police officer who told her that her days were numbered. Following this encounter, a heated exchange apparently ensued resulting in Ms Baasan's arrest.

1798. On that same evening, Chingeltei District Court reportedly ruled that there was no basis for Ms Baasan's arrest. However the following morning the same Court sentenced

Ms Baasan to 14 days preventive detention on charges of disturbing the public order. The charges apparently stemmed from a letter of complaint submitted by five employees of the Ministry of Justice. Ms Baasan is currently being detained at Detention Center No. 111 in Ulaanbaatar

1799. Ms Baasan had been arrested on four separate occasions in the past, most recently in June 2007, when State security forces attempted to disperse a reportedly peaceful protest and, one of the doors of the building of the Ministry of Justice and Home Affairs was damaged. Ms. Baasan was arrested and charged for the damage done to the door of the by the Chingeltei District Court, which sentenced her to 20 days imprisonment.

1800. Concern was expressed that the arrest and detention of Ms Baasan may be related to her legitimate activities in the defence of human rights in Mongolia, particularly her recent involvement in campaigning for the rights of those detained during the State of Emergency on 1 July 2008.

### **Response from the Government**

1801. In a letter dated 4 February 2008, the Government responded to the above communication. The Government informed that Ms Baasan was sentenced for 20 days' arrest from 27 October 2008 to 18 November 2008, and fined for 20.000 tugrugs.

1802. The Government also provided the summary of events, according to which on 9 October 2006, Ms Baasan, along with a group of elders came to the City Governor's Office, in order to meet Mr Bolormaa, Head of Presidium of the Ulanbaatar Citizens Representatives Khural and provoked the others not to abide by the legal demands of the police officers fulfilling their duty. On 27 October 2006, the District Court fined her for 20.000 tugrugs.

1803. On 12 June 2007 she again lead a group of elders to the Ministry of Justice and Home Affairs and demanded to see the minister. She entered the ministry with the help of 3-4 other people and vandalized the office door of the minister. She verbally abused the state secretary of the ministry and the police officers on duty. Subsequently, the Chingeltei District Court found her guilty and sentenced her to 20 days in custody . However, it was not proven that Ms Baasan had intentionally organized the demonstrations, so the judge decided not to take measures under the Law on procedures of demonstration. Since Ms Baasan was not attending the judicial proceedings, the Sukhbaatar District Court found her guilty of negligence of judicial orders and sentenced her to 10 days in custody. On 18 November 2008, Ms Baasan came to the Ministry of Justice and Home Affairs with a group of nearly 40 people and demanded to see the minister. Regarding this incident, she was sentenced to 15 days in custody. From 27 October 2006 to 18 November 2008, Ms Baasan, leader of the Free Elders' Union, had been sentenced four times under the articles 21 and 30 of the Law on administrative responsibility. The Government noted that the police have never infringed her right to speech, right of freedom of opinion and expression and right of peaceful demonstration.

## Observations

1804. The Special Rapporteur wishes to thank the Government for the response provided to her communication of 27 November 2008. The Special Rapporteur wishes to remind the Government of Mongolia of its obligations under international human rights instruments, especially articles 19 and 21; as well as article 5 (a) and article 6 (a) of the Declaration on human rights defenders.

## Morocco

### Réponse du Gouvernement à une communication envoyée avant le 11 décembre 2007

1805. Par une lettre en date du 20 juin 2008, le Gouvernement a répondu à l'appel urgent du 30 août 2007. Le Gouvernement indique que le 10 mai 2007, des étudiants membres du « Mouvement Culturel Amazigh » se sont affrontés avec des étudiants se réclamant du Nahj Addimoqrati Al Quaidi de « l'extrême gauche », dans l'enceinte de l'Université Moulay Ismail de Meknès. Ayant subi des blessures suite à ces affrontements, l'étudiant Mostapha Oussayi, membre du « Mouvement Culturel Amazigh », a décidé, lors d'une réunion tenue à son domicile avec d'autres membres, de se venger des étudiants du Nahj Addimoqrati Al Quaidi. Lors de cette réunion, il a été décidé de l'acquisition et la distribution d'armes blanches ainsi que la répartition des tâches pour l'accomplissement des fiats envisagés. Ainsi, il a été demandé aux étudiants Ouadi Omar, Taghlaoui Omar, Ait Al Qaid Idir et Zeddou Mohamed d'attendre que d'autres étudiants du Mouvement puissent provoquer des affrontements avec les étudiants du Nahj Addimoqrati Al Quaidi, pour passer à l'attaque et exécuter leurs actes de vengeance. Lors de ces affrontements, les deux groupes antagonistes se sont échangés des jets de pierres qui ont occasionné la chute de l'étudiant Sassioui Tahar, membre du Nahj Addimoqrati Al Quaidi, qui a été attaqué simultanément, avec des armes blanches, de la part des étudiants Mostapha Oussai, Hamid Attouche, Mohamed Annouari, Youssef Ait Lbacha et Younès Hajji Mohamed Chami. Constatant les graves conséquences de leur attaque, ceux-ci se sont enfuis laissant la victime gisant dans le sang au milieu d'un groupe de personnes dont 4 témoins oculaires. La victime n'a pu malheureusement être sauvée en dépit de tous les efforts déployés puisqu'elle a rendu l'âme au cours de son transfert à l'hôpital. Sur le lieu du crime, il a été procédé à l'arrestation de Moutapha Zemzoumi, Hafid Inou, Khalid Elmahi, Moussa Ikourachen et Jalal Merouani, membres du Nahj Addimoqrati Al Quaidi en possession d'armes blanches. Les enquêtes diligentées, basées entre autres sur les déclarations des quatre témoins présents lors de ces affrontements, ont abouti à l'arrestation des dénommés : Moustapha Oussay, Hamid Addouch, Mohamed Nouri, Youssef Aït-Lbacha, Younès Hija, Mohamed Chami, du « Mouvement Culturel Amazigh », qui ont été poursuivis pour formation d'une bande criminelle et pour homicide volontaire avec préméditation ; Ouddi Amer, Taghlaoui Amer, Idir Aït-Lkaid et Mohammed Zeddou, du « Mouvement Culturel Amazigh », ont été, de leur part, poursuivis pour appartenance à une bande criminelle et la participation à un homicide volontaire avec préméditation ; Moutapha Zemzoumi, Hafid Inou, Khalid

Elmahi, Moussa Ikourachen et Jalal Merouani, du « Mouvement Bassiste », ont été poursuivis pour possession d'armes blanches dans des circonstances pouvant constituer un danger à la sécurité d'autrui.

1806. En date du 13 mai 2007, des affrontements ont eu lieu entre un groupe d'étudiants appartenant au Nahj Addimoqrati Al Quaidi et un autre groupe d'Amazighs qui ont occasionné la mort de l'étudiant Abderahmane Hasnaoui. Lors de ces événements, l'étudiant Rachid Kadiri qui a été transféré à l'hôpital de Meknès en raison de la gravité de ses blessures, n'a pas pu être sauvé et est décédé par la suite. Des dizaines d'autres étudiants ont été blessés à des degrés divers. Suite à ces affrontements, un groupe d'étudiants a été arrêté et déféré devant le juge d'instruction qui a décidé de les poursuivre pour crime, suite à des coups et blessures et pour homicide involontaire. Sur la base des enquêtes diligentées à ce sujet, en particulier les déclarations du gardien de l'Université qui a assisté à ces affrontements, des étudiants ont été arrêtés et ont été poursuivis pour coups et blessures ayant entraîné la mort avec préméditation. En date du 25 octobre 2007, la Chambre criminelle a décidé de poursuivre les dénommés : Sekkou Mohamed et Soulaïmane Ouali pour coups et blessures ayant entraîné la mort sans préméditation et les a condamnés à 5 ans de prison ferme ; Abdelaziz Saïdi, Mohamed Oulhaj, Rachid Hachami et Noureddine Azakou pour participation à une bagarre ayant entraîné la mort et les a condamnés à 2 ans de prison ferme ; Libération des autres inculpés. Cette décision a été contestée en appel. En date du 11 décembre 2007, la Chambre criminelle de la Cour d'appel a confirmé le jugement du Tribunal de première instance en réduisant les peines pour : Sekkou Mohamed et Soulaïmane Ouali à deux ans de prison ferme ; Noureddine Azakou à un an de prison ferme ; Mohamed Oulhaj, Rachid Hachami à 7 mois de prison ferme ; Libération des autres inculpés. Par la suite, le Procureur général a formulé un recours en cassation.

1807. Après leurs comparutions devant le Procureur général, aucune trace de torture ou de mauvais traitement n'a été signalée sur les étudiants arrêtés suite aux événements de Meknès. De même, aucune plainte de torture ou de mauvais traitement n'a été déposée.

1808. Après que les intéressés aient renié leurs aveux devant le juge d'instruction, ce dernier a écouté les témoignages de plusieurs personnes qui ont reconnu les accusés et ont indiqué les avoir vu lors des affrontements en train de poignarder la victime.

1809. La situation de ces prisonniers ne diffère nullement de celle des autres prisonniers sur tout le territoire du Royaume. Aucune plainte n'a été déposée à ce sujet.

### **Lettre d'allégations**

1810. Le 28 janvier 2008, l'ancienne Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une lettre d'allégations sur la situation de M. **Mohamed Boughrine**, M. **Abdelkbir Rabaoui**, M. **Abass Abbassi**, M. **Mohamed Fadel**, M. **Abdelaziz Timor**, M. **Brahim Ahansal**, M. **Smaïn Amrar**, M. **Abderrahmane Aaji**, M. **Mohamed Yousfi**, M. **Nabil**

**Cherqui, M. Thami Khyati, M. Youssef Reggab, M. Oussama Ben Messaoud, M. Ahmed Al Kaateb, M. Rabii Raïssouni, M. Mehdi Berbouchi, M. Abderrahim Karrad, Mme. Khadija Nitassi, M. Hassan Mahfoud, Mme Khadija Ryadi, M. Abdelhamid Amine, M. Abdelilah Ben Abdesslam, M. Abdesslam Adib et M. Omar Kaji**, tous membres de l'Association marocaine des droits humains (AMDH). Selon les informations reçues:

1811. Le 30 janvier 2008, M. Mohamed Bouhrine, M. Abdelkbir Rabaoui, M. Abass Abbassi, M. Mohamed Fadel, M. Abdelaziz Timor, M. Brahim Ahansal, M. Smaïn Amrar, M. Abderrahmane Aaji, M. Mohamed Yousfi et M. Nabil Cherqui devraient comparaitre devant la cour de cassation du Maroc après avoir été reconnus coupables d'« atteinte à la monarchie » par une cour d'appel en août 2007. Leur arrestation ferait suite à leur participation les 5 et 6 juin 2007 à une manifestation pacifique organisée dans la ville de Beni Mellal en signe de solidarité avec sept autres membres de l'AMDH arrêtés après des manifestations similaires le 1er mai 2007 dans le cadre de la Journée internationale du travail. Le 26 juin 2007, un tribunal aurait condamné M. Mohamed Bouhrine à un an d'emprisonnement pour « atteinte à la monarchie ». Trois autres personnes auraient été condamnées à deux mois avec sursis, et les six autres hommes auraient été acquittés. Cependant, à la suite d'un appel interjeté par l'accusation, la peine de M. Mohamed Bouhrine aurait été allongée à trois années de prison et ses neuf coaccusés auraient été condamnés à un an ferme. Si la cour de cassation confirme ce jugement, M. Mohamed Bouhrine, incarcéré depuis son arrestation le 5 juin 2007, risquerait de purger une peine de trois ans d'emprisonnement et les neuf autres hommes, actuellement en liberté, jusqu'à ce que la décision finale soit rendue, pourraient également être emprisonnés.

1812. Les sept membres de l'AMDH arrêtés le 1er mai 2007 et pour lesquels une manifestation pacifique avait été organisée les 5 et 6 juin 2007 sont M. Thami Khyati, M. Youssef Reggab, M. Oussama Ben Messaoud, M. Ahmed Al Kaateb et M. Rabii Raïssouni, qui auraient été arrêtés à Ksar el Kebir et auraient été condamnés à trois ans d'emprisonnement et à une lourde amende, condamnation confirmée en appel le 24 juillet et peine prolongée de trois à quatre ans; et M. Mehdi Berbouchi et M. Abderrahim Karrad, qui auraient été arrêtés à Agadir et condamnés à deux ans de prison assortis d'une lourde amende, également pour « atteinte à la monarchie », condamnation et peine confirmées en appel.

1813. Par ailleurs, le 15 juin 2007, des rassemblements de solidarité envers ces sept membres de l'AMDH auraient eu lieu dans plusieurs villes du Maroc et auraient été violemment dispersés. Les forces de l'ordre seraient intervenues et auraient frappé, traîné par les pieds et piétiné une trentaine de participants, notamment Mme. Khadija Nitassi (fracture du pied), M. Hassan Mahfoud (perforation du tympan), Mme Khadija Ryadi, M. Abdelhamid Amine, M. Abdelilah Ben Abdesslam, M. Abdesslam Adib et M. Omar Kaji. Une quinzaine de personnes auraient été évacuées vers les hôpitaux pour recevoir les premiers secours.

1814. Des craintes ont été exprimées quant au fait que les arrestations et condamnations des personnes susmentionnées soient liées à leurs activités non-violentes de promotion et

protection des droits de l'homme. D'autres craintes ont été exprimées quant au fait que la répression violente des manifestations du 15 juin 2007 soit également liée aux activités non-violentes des participants en faveur des droits de l'homme.

### **Réponse du Gouvernement**

1815. Par une lettre datée du 7 mars 2008, le Gouvernement a indiqué qu'en date du 1er mai 2007, un groupe d'une trentaine de protestataires ont participé à la manifestation organisée par l'Union Marocaine du Travail à Ksar El Kebir et ont répété des slogans portant atteinte aux Institutions sacrées du Royaume. Suite aux investigations menées par les services de police, les dénommés Thami Khyati, Youssef Reggab, Oussama Ben Messaoud, Afmed Al Kaateb et Mohammed Raïssouni ont été arrêtés pour atteintes aux Institutions sacrées du Royaume et ce, conformément aux articles 38 et 41 du décret de 1958 modifié par le décret du 3 octobre 2002 et l'article 179 du code pénal. Le 22 mai 2007, ils ont été condamnés, en première instance, à trois ans de prison ferme et une amende de 10.000 DH. Cette sentence a été confirmée en appel, le 24 juillet 2007, en augmentant la peine à quatre ans de prison ferme. Il convient de rappeler que le parquet a fait appel auprès de la Cour Suprême. Lors d'une manifestation organisée à Agadir le 1er mai 2007, dans le cadre de la journée mondiale du travail par l'Union Marocaine du Travail, les dénommées Mehdi Berbouchi et Abderahim Karrad ont répété des slogans portant atteinte à la personne du Roi. Suite aux investigations menées, ils ont été arrêtés à Agadir et condamnés, en première instance, le 9 mai 2007, à deux ans de prison assortis d'une amende de 10.000 DH pour atteinte à la personne du Roi et ce, conformément à la réglementation en vigueur au Royaume du Maroc, notamment l'article 179 du code pénal. Ces condamnations et peines ont été confirmées en appel le 26 juin 2007. En date du 5 juin 2007, le « comité local de soutien avec les détenus du 1er mai » a organisé une manifestation à laquelle ont participé les dénommés Mohamed Boughrine, Abdelkbir Rabaoui, Abass Abbassi, Mohamed Fadel, Abdelaziz Timor, Brahim Ahansal, Samin Amrar, Abderahmane Aaji, Mohamed Yousfi et Nabil Cherqui qui ont répété des slogans portant atteinte aux Institutions sacrées du Royaume. En date du 5 juin 2007, la Cour de première instance a : poursuivi Mohamed Boughrine pour atteinte aux valeurs sacrées du Royaume, atteinte à une organisation, mépris de décisions judiciaires et l'a condamné à un an de prison ferme et à une amende de 10.000 DH ; poursuivi Brahim Ahansal, Abdelkbir Rabaoui et Mohamed Yousfi pour atteinte à une organisation et les a condamnés à deux mois de prison avec sursis et une amende de 500 DH ; et a acquitté les autres. Le 9 août 2007, la Cour d'appel a annulé le jugement de première instance en le modifiant par l'augmentation de la sentence à trois ans de prison ferme pour Mohamed Boughrine et à un an pour les autres.

1816. Par une lettre datée du 22 avril 2008, le Gouvernement a indiqué que les 17 personnes qui avaient été interpellées au lendemain des manifestations du 1er mai 2007 ont bénéficié d'une grâce royale le vendredi 4 avril 2008. Il s'agit d'Abderrahim Karrad, Mehdi Berbouchi, Mohamed Boughrine, Abdelhakim Rabaoui, Abass Abbassi, Mohamed Fadel, Abdelaziz Timor, Brahim Ahansal, Ismaïl Amraz, Abderahmane Aaji, Mohammed Yousfi, Cherqui Nabli, Thami Al Khayati, Youssef Reggab, Oussama Benmassaoud, Ahmed Al Kaated et Mohammed Raïssouni.

### **Appel urgent**

1817. Le 7 mars 2008, l'ancienne Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur la torture, a envoyé un appel urgent concernant l'arrestation de M. **Yahya Mohamed el Hafed Aaza**, un membre de l'Association Marocaine des Droits de l'Homme (AMDH) et membre de l'Assemblée Constitutive du Collectif des Défenseurs Sahraouis des Droits de l'Homme (CODESA). Selon les informations reçues:

1818. Le 29 février 2008, M. Yahya Mohamed el Hafed Aaza aurait été arrêté alors qu'il travaillait dans son magasin de Tan-Tan, dans le sud du pays. Cette arrestation serait liée à des manifestations pro-indépendance qui se seraient déroulées le 27 février dans la ville. M. Yahya Mohamed el Hafed Aaza serait détenu au poste de police de Tan-Tan pour interrogation, mais il n'aurait pas encore été inculpé et il n'aurait pas eu accès à son avocat ainsi qu'à sa famille.

1819. M. Yahya Mohamed el Hafed Aaza aurait par le passé déjà été arrêté par les services de renseignement de l'armée marocaine en 2004 et 2006, et qu'en 2005, ces mêmes services l'auraient kidnappé et retenu pendant deux semaines, au cours desquelles, il aurait été soumis à la torture.

1820. Au vu des allégations de sa détention incommunicado, des craintes ont été exprimées pour l'intégrité physique et mentale de M. el Hafed Aaza. Des craintes ont aussi été exprimées quant au fait que son arrestation soit liée à ses activités non-violentes de promotion et protection des droits de l'homme.

### **Réponse du Gouvernement**

1821. Par lettre datée du 20 juin 2008, le Gouvernement a indiqué que le 26 février 2008, une quarantaine de jeunes cagoulés ont organisé un attroupement armé au quartier Ain Errahma au centre ville de Tan Tan, ont installé des obstacles entravant la circulation sur la voie publique et se sont attaqués, par des jets de pierres, aux forces de l'ordre blessant, ainsi, grièvement, au niveau du crâne, le gardien de la paix Abdelaziz Meski qui a succombé à ses blessures à l'hôpital, le 3 mars 2008. L'enquête menée, dans ce cadre, a permis l'arrestation des dénommés Lahcen Lafkir, Najem Bouba, Mohamed Salmi, Meyara Moujahid, Mahmoud Barkaoui et Yahya Aaza. Le dénommé Lahcen Lafkir a déclaré que Yahya Mohamed El Hafed Aaza était le commanditaire principal desdits troubles de l'ordre public. Ce dernier avait demandé à Lahcen Lafkir, Meyara Moujahid et Najem Bouba, à travers Mahmoud Barkaoui, d'organiser un rassemblement sur la voie publique en vue de porter atteinte à la sécurité dans la région, en récompense d'une somme d'argent. Ceci a été confirmé par Meyara Moujahid et Najem Bouba lors des interrogatoires. Pour sa part, Yahya Mohamed El Hafed Aaza a déclaré qu'il recevait des sommes d'argent d'Omar Boulsane, soi-disant représentant du « polisarario » à Las Palmas

en Espagne, pour financer ses activités visant à perpétrer des actes portant atteinte à l'ordre public. Le 4 mars 2008, les mis en cause ont été traduits devant la cour d'appel d'Agadir pour attroupement armé sur la voie publique et violence à l'encontre d'un fonctionnaire de police dans l'exercice de ses fonctions ayant entraîné la mort. Il convient de préciser que l'interpellation et la mise en garde à vue de l'intéressé ont été effectuées dans le respect total des procédures et lois en vigueur. Compte tenu de ce qui précède, les personnes ayant fait l'objet de ces deux appels urgents ont été interpellés, non pas pour leurs activités de défense des droits de l'Homme, lors d'une manifestation dite pacifique, mais principalement pour des actes criminels ayant causé la mort d'un policier en exercice de sa fonction.

### **Appel urgent**

1822. Le 21 avril 2008, l'ancienne Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme, conjointement avec la Vice-Présidente du Groupe de Travail sur la détention arbitraire et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent sur la situation de **M. Lahcène Salek Lefkir**, connu sous le nom de Benena, **M. Yahya Mohamed El Hafed Azza**, membre de la section Tan Tan de l'Association marocaine des droits de l'homme et du Collectif sahraoui des droits de l'homme, **M. Mohamed El Abd Salmi**, membre de l'association marocaine des droits de l'homme, **M. El Moujahid Ali Bouya Meyara**, **M. Najem Mahjoub Ahmed Najem Bouba**, **M. Mohamed Mahmoud Berkaoui** et **M. Salama Mohamed Labeid Charafi**. M. Yahya Mohamed El Hafed Azza a fait l'objet d'un appel urgent envoyé le 7 mars 2008 par le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur la torture et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme. Selon les informations reçues :

1823. Suite aux manifestations sur la situation du Sahara occidental, présentées comme étant non-violentes, qui ont eu lieu à Tan Tan le 28 février 2008, les personnes susmentionnées auraient été interpellées par la police et incarcérées à la prison d'Ain Zegane.

1824. Le 26 mars 2008, M. Yahya Mohamed El Hafed Azza aurait été agressé par quatre prisonniers de droit commun.

1825. Des craintes ont été exprimées quant à l'intégrité physique et psychologique des personnes susmentionnées en détention. D'autres craintes ont été exprimées quant au fait que l'arrestation et la détention de ces personnes soient liées à leurs activités de défense des droits de l'homme présentées comme étant non-violentes.

### **Réponse du Gouvernement**

1826. Le Gouvernement a répondu à l'appel du 21 avril 2008 par la même lettre datée du 20 juin 2008.



## **Appel urgent**

1827. Le 23 avril 2008, l'ancienne Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur la torture, a envoyé un appel urgent sur la situation de M. **Enaâma Asfari**, co-président du Comité pour le respect des libertés et des droits humains au Sahara occidental (CORELSO). Selon les informations reçues :

1828. Dans la soirée du 13 avril 2008, M. Enaâma Asfari aurait été arrêté et agressé physiquement par cinq agents de police en civil à Marrakech. M. Asfari aurait ensuite été emmené, les yeux bandés et menotté, vers une destination inconnue, où il aurait été dévêtu, attaché à un arbre et battu. M. Asfari aurait perdu connaissance des suites de ses blessures et été conduit à l'hôpital.

1829. Le 14 avril au matin, M. Asfari aurait été conduit au poste de police qui se trouve place Jamaa Elafna et aurait été interrogé sur ses activités de militant des droits de l'homme.

1830. Dans la matinée du 15 avril, M. Asfari aurait été présenté devant le Procureur général de Marrakech, qui aurait décidé de le traduire devant une cour de première instance le même jour pour conduite en état d'ivresse, tabassage et blessure, et possession d'une arme blanche. La cour aurait alors décidé de reporter son audience au 17 avril pour permettre à M. Asfari de trouver un avocat. Le 17 avril, son audience aurait été reportée au 21 avril.

1831. Lors de l'audience du 21 avril, M. Asfari aurait déclaré qu'au moment de son arrestation, il était suivi depuis 3 jours par les services de police. Il aurait également montré à la cour les traces des violences dont il aurait été l'objet avant et pendant sa détention. Il aurait également déclaré être victime d'un coup monté, expliquant que tous les premiers interrogatoires conduits par la police auraient porté exclusivement sur ses activités de défense des droits de l'homme en relation avec la situation du Sahara occidental. La cour aurait ensuite appelé à la barre la plaignante et un des témoins. La plaignante aurait déclaré que M. Asfari l'avait frappée d'un coup de poing à l'œil gauche, alors que le témoin aurait déclaré que ce dernier l'avait frappé d'un coup de tête. Ces contradictions auraient conduit la cour à reporter l'examen des faits au 28 avril 2008. Les observateurs internationaux présents à l'audience auraient constaté qu'aucune arme n'avait été saisie ; que l'état d'ivresse allégué n'aurait fait l'objet d'aucun constat ou contrôle médical ; que la plaignante et le témoin à charge seraient en désaccord sur le déroulement des faits et qu'aucune enquête n'aurait été menée sur les brutalités dont M. Asfari aurait été victime.

1832. Depuis le 15 avril, M. Asfari serait détenu à la prison de Boulemharez à Marrakech. Sa famille n'aurait pas été informée officiellement de son arrestation, ni du lieu de sa détention.

1833. Des craintes ont été exprimées quant au fait que l'arrestation et la détention de M. Asfari ainsi que les mauvais traitements dont il aurait été victime soient liés à ses activités non-violentes de défense des droits de l'homme.

### **Réponse du Gouvernement**

1834. Par lettre datée du 20 juin 2008, le Gouvernement a indiqué que dans la soirée du 15 avril 2008, le dénommé Enaâma Asfari, qui était en état d'ivresse, a eu une altercation avec une jeune femme enceinte, en lui assénant un violent coup au visage qui lui a causé une hémorragie nasale, puis un autre coup au niveau du ventre ayant nécessité son évacuation à l'hôpital en présence de trois témoins oculaires. Le coupable a causé également beaucoup de dégâts matériels au véhicule des agents de police qui ont réussi, après son arrestation, à lui enlever une arme blanche en sa possession. Sur instruction du parquet, le mis en cause a été mis en garde à vue et a été présenté à la justice, le 28 avril 2008, qui l'a condamné à 2 mois de prison ferme et 3700 Dhs d'amende pour « coups et blessures, ivresse manifeste, conduite en état d'ivresse et dégâts matériels causés à un bien d'utilité publique ». Ces actes sont sanctionnés par les dispositions de l'Article 6 de la décision 24-1-1953 et les Articles 303 bis, 400 et 595 du Code Pénal marocain. Ont été présents à cette audience, en tant qu'observateurs, un juge italien, une avocate française, l'épouse de l'intéressé, et deux autres personnes représentant des ONGs en matière des droits de l'Homme. Concernant les allégations de mauvais traitements qui auraient été perpétrés à l'intéressé durant son arrestation, elles sont dénuées de tout fondement et demeurent de simples allégations. D'ailleurs, le procureur du Roi près du tribunal de 1ère instance de Marrakech a adressé, le 21 avril 2008, une correspondance au procureur général dans laquelle il précise que l'accusé ne portait aucune trace de tortue durant son audience.

### **Lettre d'allégations**

1835. Le 21 mai 2008, la Rapporteuse Spéciale sur la situation des défenseurs des droits de l'homme a envoyé une lettre d'allégations sur la situation de M. **Hammoud Iguilid**, membre du secrétariat du Collectif des défenseurs sahraouis des droits de l'homme et président de la section de l'Association marocaine des droits humains (AMDH) à Laâyoune. Selon les informations reçues :

1836. Dans la soirée du 10 mai 2008, M. Hammoud Iguilid aurait été interpellé par quatre policiers en civil à Laâyoune et aurait été emmené de force, les yeux bandés et menottés, dans un véhicule de police où il aurait subi des actes de violence. Il y aurait été interrogé pendant une heure sur la participation de la section Laâyoune de l'AMDH à la fête du travail du 1er mai 2008. M. Hammoud Iguilid aurait ensuite été libéré et certains de ses effets personnels auraient été confisqués, tels que sa carte de crédit et l'argent qu'il détenait sur lui au moment des faits.

1837. Cet incident fait suite à une première arrestation en mars 2008 au cours de laquelle M. Hammoud Iguilid avait également été interrogé sur les activités de l'AMDH.

1838. Des craintes ont été exprimées quant au fait que l'arrestation et interrogation de M. Hammoud Iguilid soient liées à ses activités non-violentes de défense des droits de l'homme.

### **Réponse du Gouvernement**

1839. Par une lettre datée du 21 juillet 2008, le Gouvernement a indiqué qu'en date du 11 mai 2008, le dénommé Hammoud Iguilid a fait répandre des allégations faisant état de son enlèvement dans la soirée du 10 mai 2008 et a diffusé un communiqué dans lequel il dénonce cette prétendue arrestation et demande l'ouverture d'une enquête, tout en appelant à une action de solidarité en sa faveur. Ce communiqué a également été repris par certaines ONG marocaines. Le 13 mai 2008, l'intéressé a déposé une plainte auprès du parquet de Laâyoune pour enlèvement et mauvais traitements. Ainsi, le Procureur du Roi auprès du Tribunal de première instance de la ville de Laâyoune a ordonné une enquête en l'objet. Sur instruction du Procureur Général, l'intéressé a été auditionné par la Police Judiciaire et a déclaré qu'il avait été interpellé, le 10 mai 2008, à 20h00, par quatre policiers en civil qui l'ont embarqué dans un véhicule de police de couleur bleue après l'avoir menotté et lui avoir bandé les yeux. Il a également ajouté que ces personnes l'ont fouillé et l'ont dépossédé de quelques affaires personnelles (une « clef USB », une somme d'argent de près de 700 DH et des documents bancaires) avant de le relâcher dans un lieu qui lui est inconnu. L'intéressé a, par ailleurs, indiqué qu'il n'avait pu identifier ni les policiers qui l'auraient enlevé, ni la plaque d'immatriculation du véhicule qui l'aurait embarqué et qu'il ne disposait d'aucun témoin oculaire concernant cet « enlèvement » qui pourtant se serait déroulé sur la voie publique. L'enquête menée en l'objet par les services compétents, basée notamment sur la vérification des registres de la Préfecture de police de la ville de Laâyoune, a montré que l'intéressé n'a fait l'objet d'aucune arrestation et qu'aucun mandat d'arrêt n'a été lancé à son encontre. Le dénommé Hammoud Iguilid n'a donc fait l'objet d'aucune arrestation et encore moins d'enlèvement ou de mauvais traitement.

### **Lettre d'allégations**

1840. Le 26 juin 2008, la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une lettre d'allégations sur la situation de M. **Brahim Sabbar**, secrétaire général de l'Association sahraouie des victimes des violations graves des droits de l'Homme commises par l'Etat du Maroc au Sahara occidental (ASVDH), M. Sidi Mohamed Dadach, président du Comité sahraoui pour le soutien du droit à l'autodétermination et Mme Oum Alfadli Ali Ahmed Babou, défenseur des droits de l'homme.

1841. M. Brahim Sabbar a fait l'objet d'un appel urgent envoyé le 8 novembre 2005 par le Vice-Président du Groupe de Travail sur la détention arbitraire, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme; d'un appel urgent envoyé le 29 juin 2006 par le

Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur la torture et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme ; et d'un appel urgent envoyé le 1er février 2007 par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur la torture et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme. Le Gouvernement marocain a répondu aux trois appels susmentionnés. Selon les nouvelles informations reçues :

1842. Le 17 juin 2008, M. Brahim Sabbar aurait été libéré après avoir purgé une peine de deux ans d'emprisonnement à la prison de Laâyoune pour des faits qui avaient motivé l'envoi de l'appel urgent en date du 29 juin 2006 (précité).

1843. Le même jour, M. Brahim Sabbar se serait rendu au domicile de M. Ahmed Sbai, membre du Conseil de coordination de l'ASVDH et président du Comité pour la protection des prisonniers sahraouis dans les prisons du Maroc, également incarcéré à la prison de Laâyoune, puis libéré le 17 décembre 2007 après avoir purgé sa peine (M. Ahmed Sbai a fait l'objet de deux appels urgents en date du 29 juin 2006 et 1er février 2007, conjointement avec M. Sabbar). Des partisans de M. Sabbar, désireux de saluer celui-ci, se seraient rendus au domicile de M. Sbai, mais auraient été empêchés d'y accéder par un important dispositif policier. Par ailleurs, les forces de sécurité auraient violenté, insulté et agressé verbalement M. Sidi Mohamed Dadach et Mme Oum Alfadli Ali Ahmed Babou alors qu'ils quittaient le domicile de M. Sbai. Enfin, la famille de M. Sbai aurait fait l'objet d'insultes de la part de ces mêmes policiers.

1844. Plus tard dans la journée, M. Brahim Sabbar se serait ensuite rendu au domicile de M. Embarek Hiji, autre membre de l'ASVDH. Le quartier où réside M. Hiji aurait similairement été encerclé par la police afin d'empêcher toutes personnes de rencontrer M. Sabbar.

1845. Des craintes ont été exprimées quant au fait que les actes des forces de l'ordre susmentionnés soient en relation avec les activités de défense des droits de l'homme des personnes précitées.

### **Réponse du Gouvernement**

1846. Par une lettre datée du 15 septembre 2008, le Gouvernement a indiqué que l'activiste « pro polissario » Brahim Sebbar a été libéré le 17 juin 2008 dans la matinée, après avoir purgé une peine de deux ans de prison ferme. L'intéressé a été accueilli et accompagné à sa sortie de prison par le nommé Ahmed Sbai à son domicile. Dans l'après-midi du même jour, Brahim Sebbar s'est rendu au domicile du nommé Embarek Hiji où une cérémonie d'accueil lui a été organisée par les séparatistes, en présence d'une vingtaine de personnes et à laquelle ont été conviés, également, sept ressortissants étrangers qui ont filmé cette cérémonie. Cette cérémonie, qui s'est déroulée en toute liberté, a pris l'allure d'une « manifestation séparatiste » marquée par le placardage de banderoles et par des allocutions des activistes pro polissario dont Sidi Mohamed Dadach,

Brahim Sebbar, El Ghalia Djimi et Embarek Hijji. L'intéressé a également continué à recevoir des visites durant deux jours, avant de quitter la Province de Laâyoune à destination de son domicile, sis à la localité de Ksabi où un autre accueil lui a été réservé, le 21 juin 2008, en présence de 150 personnes dont Mohamed Dadach et qui a pris la même tournure pro-séparatiste. Dans ce cadre, les domiciles des nommés Ahmed Sbai et M'Barek Hijji n'ont fait l'objet d'aucune mesure de la part des autorités. Concernant les allégations de violences et agressions verbales avancées par les dénommés Sidi Mohamed Dadach et Oum AlFadli Ali Ahmed Babou ayant prétendu être « violenté, insultés et agressés verbalement » par les forces de l'ordre, elles sont dénuées de tout fondement et demeurent de simples assertions. D'ailleurs aucune plainte, à ce sujet n'a été déposée devant les instances judiciaires compétentes.

### **Appel urgent**

1847. Le 3 novembre 2008, la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, conjointement avec la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent sur la situation de M. **Shikhin Brahim**, étudiant et membre du Comité pour la défense des droits de l'homme de Smara-Sahara Occidental (CDDH), Mme **Engiya Boukhars**, membre du CDDH et M **Alnassiri Ahmed**, Secrétaire Général du CDDH et membre de l'Association marocaine des droits de l'homme. Selon les informations reçues :

1848. Le 21 septembre 2008, à l'occasion de la visite d'une organisation non-gouvernementale (ONG) internationale à Smara, un groupe d'activistes des droits de l'homme du Sahara Occidental aurait organisé une manifestation pacifique dans la ville pour dénoncer la situation des droits de l'homme dans la région. A la suite de cet événement, plusieurs personnes auraient été arrêtées par les forces de l'ordre et des habitations auraient été dégradées. La plupart des personnes auraient été libérées par la suite, mais M. Shikhin Brahim serait toujours maintenu en détention à la prison de Laâyoune.

1849. Le même jour, Mme Engiya Boukhars, qui avait rencontré les membres de cette ONG internationale, aurait été agressée physiquement par les forces de l'ordre. Elle aurait notamment été blessée au visage. Par ailleurs, suite à cette rencontre, son salaire ne lui aurait plus été versé.

1850. Enfin, suite à une réunion entre les membres de cette ONG internationale et M. Alnassiri Ahmed, les forces de l'ordre auraient tenté d'interpeller ce dernier à son domicile, mais celui-ci n'était alors pas présent. Quelques jours plus tard, M. Alnassiri Ahmed aurait reçu une lettre officielle lui notifiant son licenciement de son poste à la municipalité de Khraibka. M. Alnassiri Ahmed aurait fait l'objet de cinq arrestations présentées comme arbitraires entre 2002 et 2004 et aurait été suspendu à 2 reprises de son travail.

1851. Des craintes ont été exprimées quant au fait que l'arrestation et la détention de M. Shikhin Brahim, l'agression de Mme Engiya Boukhars, la suspension du paiement de son salaire, et la tentative d'arrestation de M. Alnassiri Ahmed et son licenciement subséquent soient liés à leurs activités de promotion et protection des droits de l'homme au Sahara Occidental. Des craintes ont également été exprimées pour l'intégrité physique et mentale de M. Shikhin Brahim durant sa détention.

### **Observations**

1852. La Rapporteuse spéciale remercie le Gouvernement de toutes ses réponses mais regrette, au moment de la finalisation du présent rapport, l'absence de réponse aux communications en date du 21 août 2007, 12 novembre 2007, 30 novembre 2007 et 3 novembre 2008 et exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celles-ci.

1853. La Rapporteuse spéciale salue la grâce royale accordée aux 17 personnes qui avaient été interpellées au lendemain des manifestations du 1er mai 2007. Toutefois, la Rapporteuse spéciale demeure préoccupée par les restrictions imposées aux libertés de réunion et d'association et rappelle au Gouvernement que l'article 5 de la Déclaration sur les défenseurs des droits de l'homme dispose qu' « afin de promouvoir et protéger les droits de l'homme et les libertés fondamentales, chacun a le droit, individuellement ou en association avec d'autres, aux niveaux national et international : a) De se réunir et de se rassembler pacifiquement ; b) De former des organisations, associations ou groupes non-gouvernementaux, de s'y affilier et d'y participer ; c) De communiquer avec des organisations non-gouvernementales ou intergouvernementales ».

1854. La Rapporteuse spéciale demeure préoccupée du sort des défenseurs des droits de l'homme opérant au Sahara Occidental et presse le Gouvernement de respecter leurs activités.

## **Myanmar**

### **Urgent appeal**

1855. On 13 December 2007, the then Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the Situation of Human Rights in Myanmar sent an urgent appeal to the Government concerning Mr **U Tin Hla**, a member of the Federation of Trade Unions - Burma (FTUB) and of the Burma Railway Union.

1856. According to information received, on 28 November 2007, Mr U Tin Hla, along with his family, was arrested by the Special Branch Police. Members of the Special Branch Police came to Mr U Tin Hla's home and accused him of organising and inciting railway workers' participation in the rallies of September 2007. Mr U Tin Hla, his wife,

his son and his daughter were all taken to Mingala Taungyunt Police Station where they were interrogated. After a period of five days, Mr U Tin Hla's wife and children were released while Mr. U Tin Hla was taken to an unknown location for further interrogation.

1857. Police were reported to have confiscated various personal items from Mr U Tin Hla's home, including photographs of Daw Aung San Suu Kyi, as well as electrical cords and tools that Mr U Tin Hla uses for his work. Mr U Tin Hla had been returned to the Mingala Taungyunt Police Station, where he is being detained and charged with "possession of explosive material, tools and electric cords".

1858. Concern was expressed that the reported detention of Mr U Tin Hla and his family, the confiscation of their belongings, and the charges that have been taken against Mr U Tin Hla may be directly related to his human rights work, in particular his work to defend workers' rights in Myanmar.

### **Response from the Government**

1859. In a letter dated 14 February 2008, the Government of Myanmar responded to the above communication. The letter stated that U Tin Hla was detained under the section 5(j) of the Emergency Provisions Act 1950 and he has been released on 25 October 2007.

### **Urgent appeal**

1860. On 31 January 2008, the then Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the Situation of Human Rights in Myanmar sent an urgent appeal to the Government concerning Mr **Min Ze Ya**, Mr **Paw U Tun** (alias Min Ko Naing), Mr **Ko Ko Gyi**, Mr **Pyone Cho** (alias Htay Win Aung), Mr **Aung Thu**, Mr **Kyaw Kyaw Htwe** (alias Marky), Mr **Kyaw Min Yu** (alias Jimmy), Mr **Mya Aye** (alias Thu Ya), Mr **Yin Htoo Aung**, and at least 9 other activists and university students. All are part of the 1988 Generation Students Group, known for their role in protests against military rule 20 years ago and active in the demonstrations against a sudden sharp rise in fuel prices, which began in August 2007.

1861. These persons were the subject of a joint communication sent by the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the situation of human rights in Myanmar on 6 October 2006 and of a joint communication sent by the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on the situation of human rights defenders on 28 August 2007.

1862. According to information received, on 23 January, the aforementioned persons detained since August 2007 were reportedly charged with breaking a security law. They are all reportedly being held in Yangon's Insein Prison, where they allegedly risk being tortured or otherwise ill-treated. Ten people charged on 23 January reportedly face charges of breaking Section 17/20 of Myanmar's Printers and Publishers Registration Act, but no further information on the details of the charges against the activists is presently available. The charges against the ten people came despite a statement from Myanmar's Police Force representative Mr Khin Yi at a press conference on 3 December 2007 that protesters from the demonstrations would not be prosecuted if they had acted peacefully.

1863. Mr Paw U Tun was reportedly held in a cell with a convicted prisoner and was only allowed to leave his cell for one hour each day. He had earlier been suffering toothaches which prevented him from eating and the authorities had delayed his access to medical treatment. Mr Ko Ko Kyi is reportedly being held in a cell with a prisoner who has been sentenced to death. Mr Pyone Cho has not yet been charged with any offence but is also being held in Insein Prison. The other activists and students arrested at the time of the fuel price protests were still believed to be in detention.

1864. Concern was expressed that the arrest, continuing detention and charges reportedly brought against the aforementioned may be directly related to their work in defense of human rights. Further concern was expressed for their physical and psychological integrity while in detention.

### **Urgent appeal**

1865. On 13 February 2008, the then Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the Situation of Human Rights in Myanmar sent an urgent appeal to the Government concerning Mr **U Than Lwin**, aged 70, a representative of the National League for Democracy at the Parliament of Mettaya Township, Mandalay Division.

1866. According to the information received, on 15 June 2007, an unidentified man assaulted Mr U Than Lwin with a knuckle-duster, after he had led a group of around 35 persons to pray for the release of prisoners in Myanmar at pagodas in his town of Mattaya, in upper Myanmar. The unidentified man managed to flee into an office of the Government sponsored Union Solidarity and Development Association and had never been brought to justice, although members of the prayer group immediately reported the incident to the police. Besides, the criminal case lodged has not been investigated by the authorities of Myanmar.

1867. Mr U Than Lwin was severely injured in his eyes and sustained a broken nose and cheek. The next day he was admitted to Mandalay General Hospital where he had to stay for treatment for two weeks due to dizziness and poor eyesight. After being discharged,



he had needed to continue to receive medical treatment for the injuries he sustained. On 1st October 2007, Mr U Than Lwin was arrested in connection with the protests in August and September 2007, and he was being held at Ohbo Prison, Mandalay Division, without charge. Since his arrest, his eyesight has dramatically worsened: Mr U Than Lwin had now gone completely blind in his left eye, and his right eye could also lose all sight.

1868. Serious concern was expressed that Mr U Than Lwin was being denied adequate medical treatment for the injuries he sustained. Further concern was expressed that the arrest and detention of Mr U Than Lewin may be related to his reportedly non-violent activities in defence of human rights.

### **Response from the Government**

1869. In a letter dated 6 March 2008, the Government of Myanmar responded to the above communication. The letter stated that U Than Lwin has been taken action under Section 5 (j) of the Emergency Provisions Act as he manipulated to take place the whole Sangha's demonstration in Mandalay which had led to impair the security and prevalence of Law and order in the Country. On 13 November 2008, U Than Lwin reported a pain in his left eye to the warden of Mandalay prison. Thereafter, the doctor on duty and the prison in charge examined him and gave him the necessary treatment. On 16 January 2008, he was seen by Dr Ko Ko Latt, General Physician from Mandalay General Hospital, who reported that he has lost his left eye sight. In addition, Dr. Aung Ko Ko, the prison doctor also examined him every week and helped to cure his eyes. The authorities concerned have taken action against U Than Lwin in accordance with existing law and he is currently fit and healthy.

### **Urgent appeal**

1870. On 21 February 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the Situation of Human Rights in Myanmar sent an urgent appeal to the Government concerning Messrs **Thet Zin** and **Sein Win Maung** (also known as **Ko Soe**), editor-in-chief and office-manager respectively of the Myanmar Nation (Myo Myanmar) weekly newspaper.

1871. According to information received on 15 February 2008, Messrs Thet Zin and Sein Win Maung were arrested at their office in Yangon. According to reports, police also searched the office and confiscated a copy of a report by the UN Special Rapporteur on Myanmar, Mr Paulo Sergio Pinheiro, on the human rights situation in the country, several books and CDs containing images of the street protests in August and September 2007. Police also confiscated mobiles phones and poems written by Sein Win Maung, which criticized the military junta. The Myanmar Nation newspaper is, at present, still permitted to continue publication.

1872. Reports suggest that both men are now being detained and interrogated at the Thin Gan Gyun Police Station. Family members, who were allowed to deliver some clothes, food and medicine on 16 February 2008, were reportedly told by police not to speak to foreign media. There are fears for the health of Mr Thet Zin, who suffers from a heart condition and pulmonary diseases.

1873. Concern was expressed that the arrest and detention of Messrs Thet Zin and Sein Win Maung may be directly related to their activities in defense of human rights, especially their exercise of the right to freedom of expression and peaceful protest. Further concern was expressed for the physical and psychological integrity of all those in detention, particularly Mr Thet Zin, in view of reports of his ill-health.

### **Response from the Government**

1874. In a letter dated 8 May 2008, the Government of Myanmar responded to the above communication. The letter stated that on 15 February 2008, the authorities concerned searched the office of the Myanmar Nation Journal and discovered the books, documents and VCDs which have not been registered and published in accordance with the Printers and Publishers Law 1962. Therefore, the authorities confiscated these books and VCDs.

1875. As Mr Thet Zin and MR Sein Win Maung failed to comply to comply with the Printers and Publishers Law 1962, the authorities concerned instituted the proceedings against them under the sections 17 and 20 of the abovementioned Law after due process of law. Currently, Thingangyan Township Court has been hearing the witnesses.

### **Urgent appeal**

1876. On 28 February 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the Situation of Human Rights in Myanmar sent an urgent appeal to the Government concerning Mr **U Gambira**, a Buddhist monk who was one of the leaders of protests in August and September 2007, and headed the All-Burma Monks Alliance (ABMA), which formed to support the demonstrations. Also in relation to Mr U Gambira's brother, Mr **Aung Kyaw Kyaw**, a member of the National League for Democracy (NLD), their father **Mr Min Lwin**, and Ms **Su Su Nway**, also a member of NLD and a labour activist. All of the aforementioned were the subject of an urgent appeal sent by the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on the situation of human rights defenders on 21 November 2007.

1877. According to new information received Messrs U Gambira and Aung Kyaw Kyaw were charged at the end of January under Section 17/1 of the Unlawful Associations Act, which carries a maximum sentence of three years' imprisonment. A hearing scheduled for

4 February was postponed and the authorities have not yet given a new date. Similar charges have been brought against Ms Su Su Nway, who is reportedly in poor health. All three are being held in Yangon's Insein Prison, where they may be subjected to torture or ill-treatment

1878. Mr U Gambira has been stripped of his monk's robes and both he and Mr Aung Kyaw Kyaw have allegedly been tortured in detention. Their mother and sister have been able to visit them but they are not known to have been given access to their lawyers. Their father, Mr Min Lwin was released from Insein Prison on 3 December 2007. He and Aung Kyaw Kyaw were arrested on 4 November 2007 and 17 October 2007 respectively, reportedly in an attempt to force U Gambira out of hiding.

1879. Ms Su Su Nway has reportedly been charged under sections 124, 125 and 505 of the Penal Code, which relate to sedition and incitement to offences that damage "public tranquility". She was reportedly due to stand trial on 6 February in Yangon's Bahan Township, but no information is currently available regarding the judicial proceedings. Su Su Nway has not been allowed to meet her family or receive parcels from her family. Her health is said to be deteriorating as she suffers from a heart condition and, on one occasion, had to be taken to a hospital outside the prison for treatment.

1880. Concern was expressed that the arrest, detention and charges brought against Messrs U Gambira and Aung Kyaw Kyaw, and Ms Su Su Nway may be directly related to their activities in defense of human rights. In view of reports of ill-treatment and allegations of torture, as well as information received concerning the ill-health of Ms Su Su Nway, serious concern was expressed for their physical and psychological integrity while in detention.

### **Response from the Government**

1881. In a letter dated 22 April 2008, the Government of Myanmar responded to the above communication and the communication of 21 November 2007. The letter stated that in July 2006, U Gambira and his brother Mr Aung Kyaw Kyaw illegally contacted AAPP, unlawful organization based in Thailand. He also led to form the All-Burma Junior Monks Alliance and sent 20 monks to attend the abovementioned trainings. He illegally crossed the border between Myanmar and Thailand. He received financial support from AAPP and FDB, unlawful exiled groups and then instigated civil unrest in the country. He was therefore arrested on 4 November 2007, and after due process of law, he has been charged under the section 13 (1) of the Immigration (Emergency Provisions) Act and other Acts. He is detained in the Central Prison and his family visits him once a week. He is fit and healthy in the prison.

1882. Mr. Aung Kyaw Kyaw had illegal contact with Bo Kyi from AAPP, unlawful organization in Mae Sot and attended the course on Public Defiance conducted by FDB. On 17 October 2007, the authorities concerned arrested him while he was receiving the cash transferred by Bo Kyi. After due process of law, he has been charged and is detained in the Central Prison where his family visits him once a week. He is fit and healthy.

1883. On 11 November 2007, Su Su Nway was arrested as she was attempting to incite civil unrest by placing a poster written anti-government slogan at a public place. She has been charged and is detained in the Insein Central Prison where her family visits her once a week. She is fit and healthy.

### **Urgent appeal**

1884. On 27 February 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the Situation of Human Rights in Myanmar sent an urgent appeal to the Government concerning Mr **Htay Kywe**, Ms **Mie Mie** (also known as Ms **Thin Thin Aye**), Mr **Aung Thu**, Mr **Hein Htet** (also known as **Aung Gyi**), **Mr Zaw Htet Ko Ko**, and one other unidentified person. The aforementioned are all non-violent human rights activists and members of the 1988 Generation Students Group, who were involved in the peaceful protests of August and September 2007. All were the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on the situation of human rights defenders on 17 October 2007, following their arrest on 13 October 2007.

1885. According to new information received Mr Htay Kywe, Ms Mie Mie, Mr Aung Thu and Mr Zaw Htet Ko Ko were charged on 23 January under Section 17/20 of the Printers and Publishers Registration Act, which allows the prosecution of individuals who distribute any form of written material without the authorization of the official censor. These charges against the activists came despite a statement from authorities 3 December 2007 that protesters at the September demonstrations would not be prosecuted if they had acted peacefully.

1886. They are all being held in Yangon's Insein Prison, where they have been repeatedly interrogated and may be subjected to torture or ill-treatment. Mr Htay Kywe is reportedly being kept in the same cell as criminal detainees. Furthermore, Ms Mie Mie, who is said to have a heart condition, has reportedly been denied proper medical treatment while in detention. Information is not currently available as to whether the detainees have been granted access to their lawyers.

1887. Mr Hein Htet, arrested at the same time, is also believed to be detained, but his whereabouts are unknown, as is the case of that of the unidentified man in whose home the activists were in hiding.

1888. Concern was expressed that the arrest, detention and charges brought against Mr Htay Kywe, Ms Mie Mie, Mr Aung Thu, and Mr Zaw Htet Ko Ko may be directly related to their activities in defense of human rights. In view of reports of ill-treatment and allegations of torture, as well as information received concerning the ill-health of Ms Mie

Mie, serious concern was expressed for their physical and psychological integrity while in detention.

### **Response from the Government**

1889. In a letter dated 9 April 2008, the Government of Myanmar responded to the above communication. The letter stated that Mr Htay Kywe, Ms Mie Mie, Mr Aung Thu, and Mr Zaw Htet Ko Ko have been detained in prison after due process of law for arranging to write and distribute seditious literature to incite and mislead the people and consequently to jeopardize the National Convention. The prison authorities arranged a regular medical check up for Mr. Htay Kywe, he has been charged and is detained in the Central Prison where his family visits him once a week. He is fit and healthy.

1890. Mr. Aung Thu has been visited by family members and has regular medical and check-ups, paid for by the prison. He is fit and healthy. Mr. Zaw Htet Ko Ko is detained in a separate cell and sees his family once per week. Ms. Mie Mie is detained in a separate cell and received weekly visits from her husband. She has seen the prison doctor and dentist and is fit and healthy.

### **Urgent appeal**

1891. On 2 April 2008, the then Special Representative, together with the Special Rapporteur on the Situation of Human Rights in Myanmar sent an urgent appeal to the Government concerning the situation of Mr **Myint Aye**, leader of the Human Rights Defenders and Promoters group. Mr Myint Aye was the subject of numerous communications in the past years, including a joint urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on the situation of human rights defenders on 28 August 2007, a joint urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on the situation of human rights defenders on 18 October 2006 and a joint urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the situation of human rights in Myanmar on 6 October 2006.

1892. According to new information received on 27 March 2008, while waiting for a taxi, Mr Myint Aye was reportedly attacked by two unidentified men in Myaynigone junction, Sanchaung Township, in Yangon. He was beaten on his head and was admitted to Yangon General Hospital where he received five stiches. He was discharged from hospital two days later. Mr Myint Aye reported the assault to the township court in Sanchaung.

1893. Serious concern was expressed that this new assault against Mr Myint Aye may be directly related to his non-violent activities in defence of human rights. Further concern was expressed that it may form part of a pattern of harassment against Mr Myint Aye, and more generally against human rights defenders in Myanmar.

### **Response from the Government**

1894. In a letter dated 23 April 2008, the Government of Myanmar responded to the above communication. The letter stated that on 27 March 2008, Mr Myint Aye was beaten by unidentified man and he was taken to the Yangon General Hospital to receive treatment. Mr. Myint Aye was examined by the doctor in charge at the hospital and it was reported that “the injury sustained is normal, not serious and the weapon is blunt.” On 28 March 2008, the complaint regarding the injury was lodged and police officials are currently conducting necessary investigation in order to bring the perpetrator to justice.

### **Urgent appeal**

1895. On 22 April 2008, the then Special Representative, together with the Special Rapporteur on the question of torture, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the Situation of Human Rights in Myanmar sent an urgent appeal to the Government concerning the situation of Mr **Paw U Tun** (alias **Min Ko Naing**). Mr Paw U Tun was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on the situation of human rights defenders on 31 January 2008, an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on the situation of human rights defenders on 28 August 2007 and an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the situation of human rights in Myanmar on 6 October 2006.

1896. According to new information received since late March 2008, Mr Paw U Tun has reportedly been suffering from a severe eye infection while in detention. Mr Paw U Tun requested to visit an ophthalmologist, but the prison authorities refused this request, claiming that an eye doctor would not be available before May 2008. According to reports, Mr Paw U Tun’s eye condition prevents him from eating and sleeping because of the acute pain.

1897. Concern was expressed that the continuing detention as well as the refusal of the prison authorities to allow Mr Paw U Tun to see an ophthalmologist may be linked to his non-violent activities in defense of human rights.

### **Urgent appeal**

1898. On 22 June 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal to the Government concerning Mr **Zarganar**, a famous comedian in Myanmar who had been leading some of the relief efforts after the Nargis cyclone hit the country in early May 2008 and Mr **Zaw Thet Htwe**, Chief Editor of weekly journal Sports Lovers and former Editor-in-chief of First Eleven Sports Journal in Rangoon.

1899. According to information received in the evening of 4 June 2008, some seven police led by the Yangon Western District police chief and the local council chairman came to Mr Zarganar's house and searched it. They seized personal belongings as well as USD 1,000 collected as part of the cyclone relief effort. They then arrested Mr Zarganar and took him to an undisclosed location. His whereabouts remain unknown as of today.

1900. Prior to his arrest, Mr Zarganar had given interviews to international radio stations and other media about his relief work and the needs of the population and he had also criticized the response of the State authorities to the cyclone's aftermath.

1901. On 13 June 2008, Mr Zaw Thet Htwe was arrested by special branch police officers at his ailing mother's residence in the central city of Minbu, Magway Township, central Myanmar. Following the arrest, officers proceeded to Mr Zaw Thet Htwe's home where they searched the premises and confiscated personal belongings, including his mobile phone, computer and various work related documents. Reports claim that Mr Zaw Thet Htwe's arrest may be related to his involvement in organising a number of deliveries of aid to victims of Nargis cyclone, which devastated the Irrawaddy Delta region. He had reportedly been prohibited from writing openly about the disaster prior to his arrest. Mr Zaw Thet Htwe has apparently been taken to an interrogation camp in Rangoon.

1902. Previously in July 2003, Mr Zaw Thet Htwe, was arrested following the publication of an article which questioned how authorities were spending a four-million-dollar football grant. Following his arrest, Mr Zaw Thet Htwe was charged with treason and sentenced to death for allegedly plotting to overthrow the government. The Supreme Court commuted his sentence and he was released after 18 months.

1903. Concern was expressed that the arrest and detention of Mr Zarganar and Mr Zaw Thet Htwe may be linked to their non-violent activities in defense of human rights, in particular their relief work in favour of the victims of the Nargis cyclone. In view of their

incommunicado detention, further concern was expressed for their physical and psychological integrity.

### **Response from the Government**

1904. In a letter dated 22 July 2008, the Government of Myanmar responded to the above communication. The letter stated that on 4 June 2008, Mr. Zaganar's residence was searched by the authorities and witnesses. Evidence included VCDs, US dollars and other items which were found and confiscated. According to the interrogation, amongst other charges, Mr. Zaganar could be charged for reproducing and distributing VCDs without permission, for connecting and providing distorted information opposing the State to foreign news agencies, for providing support during the Sanga unrest on 24 and 25 September 2007.

1905. On 13 June 2008, a computer system-unit and hand phone was confiscated from Mr. Zaw Thet Htwe. He is facing charges including support for the Sanga unrest by buying foodstuffs for the monks and for infringing peace and law and order of the State.

1906. The letter states that the arrests of Mr Zaganar and Mr Zaw Thet Htwe were due to their violations of the law, and not on the accusation of providing donations to the cyclone victims. In Myanmar, numerous well-wishers and donor organizations from domestic and abroad are traveling to the cyclone hit areas for the purpose of donating relief supplies and no one had been arrested for donating and providing cash and kinds to the storm victims.

### **Urgent appeal**

1907. On 19 August 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal to the Government concerning the case of Mr **Myint Aye**, leader of the Human Rights Defenders and Promoters group.

1908. According to the new information received, on 8 August 2008, the house of Mr Myint Aye was searched by the Chief of Police of Kyi Myint Taing Township, together with other police and administration officers. They seized a number of documents and personal belongings, and proceeded to arrest him.

1909. On 9 August, the family of Mr Myint Aye was visited by police officers who asked for some of his clothes and stated that he will remain in custody for an unspecified period of time without indicating the charges held against him. The whereabouts of Mr Myint Aye remain unknown as of today.

1910. Concern was expressed that this latest arrest and detention of Mr Myint Aye may be linked to his non-violent activities in defense of human rights, and may form part of a



pattern of harassment against him, and more generally against human rights defenders in Myanmar. In view of his incommunicado detention, further concern was expressed for his physical and psychological integrity.

### **Response from the Government**

1911. In a letter dated 23 October 2008, the Government of Myanmar responded to the above communication. The letter stated that Mr. Myint Aye was arrested for the involvement in the bombing which took place at the office of Shwepyitha Township Union Solidarity and Development Association in Yangon on 1 July 2008. According to the interrogations made by the authorities, he accepted a packet of explosive wrapped in black polythene bag from an unidentified youth aged about 20, who was sent by Sit Naing (his organization under investigation) on 30 June 2008.

1912. Mr. Myint Aye personally handed over the packet to Htantabin NLD youth named Yan Shwe who left for Shwepyitha Township to plant the bomb. After the bomb explosion, Yan Shwe went to Myint Aye to report their success, who then reported the information by telephone to Kyaw Htet, who handed over the bomb to Sit Naing to bring into the country and masterminded the Shwepyitha bombing. Myint Aye gave Kyat 150,000 in advance to Yan Shwe for planning the bomb. Furthermore, on 2 July 2008, out of the remaining Kyat 1.35 million, he gave Kyat 500,000 to Yan Shwe.

1913. According to further investigation, Myint Aye sent NLD youths to Maesot for the explosives and apolitical defiance courses conducted by anti-government groups and accepted illegal money to carry out anti-government activities. To this end, he was arrested at his house on 8 August 2008. Actions are being taken against Myint Aye under sections of the Explosive Act of 1908, the Immigration Act and the Lawful Association Act. The court hearing against Yan Shwe and Zaw Zaw Aung (Shwepyitha NLD), at the Shwepyitha Court on 8 August 2008, they confessed to the judge that Mr. Myint Aye accepted the bag contained the bomb and he personally handed over to Yan Shwe.

### **Urgent appeal**

1914. On 2 October 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women sent an urgent appeal to the Government concerning the case of Ms. **Nilar Thein**, aged 36, a human rights defender and pro-democracy activist.

1915. According to the information received, Ms. Nilar Thein, a leader of the democratic opposition in Myanmar, was arrested on 10 September 2008 on her way to visit the mother of Mr. Ant Bwe Kyaw, another detained activist, in a suburb of north eastern Yangon. She is currently being detained and interrogated at Aung Tha Pyay Detention Centre in Yangon.

1916. Mr. Ant Bwe Kyaw and Ms Nilar Thein's husband, Mr. Kyaw Min Yu (also known as Ko Jimmy), were among thirteen members of the so-called "88 Generation Students Group" who were arrested on 22 August 2007.

1917. The following day, Ms. Nilar Thein led around 500 people in a demonstration in Yangon to demand the release of fellow activists and to continue the protest against the sudden increase in fuel prices that had been imposed by the Government on 15 August 2007. Thereafter, Ms. Nilar Thein went into hiding, forced to leave her baby daughter in the care of her family.

1918. Ms. Nilar Thein was imprisoned twice before for her activities in support of democracy and the rule of law in the country. She was detained for two months in 1991. Following her arrest in December 1996 she was tried for participating in the students' demonstrations in Yangon of that year and sentenced to 10 years' imprisonment. She was released in 2005.

1919. Concerns were expressed that the arrest and detention of Ms. Nilar Thein might be solely connected to her reportedly peaceful exercise of her right to freedom of expression and to assembly.

### **Urgent appeal**

1920. On 5 November 2008, Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal to the Government concerning the case of Messrs **Nyi Nyi Htwe** and **Saw Kyaw Kyaw Min**, human rights lawyers who have participated in the defence of 11 youth members from Hlaing Thar Yar Township, Yangon, of the National League for Democracy (NLD).

1921. According to the information received, in September 2008, 11 youth members from Hlaing Thar Yar Township, Yangon, belonging to the NLD, were arrested for having reportedly peacefully marched towards the Shwe Dagon Pagoda on 19 June 2007, on Daw Aung San Suu Kyi's birthday. The 11 demonstrators were arrested during the march and released the next day by the authorities. One year later, they were arrested again, charged with 'instigation to public unrest' and brought to trial before the Hlaing Thar Yar Township Court.

1922. During the trial, the 11 defendants and their two lawyers, Messrs Nyi Nyi Htwe and Saw Kyaw Kyaw Min, submitted a complaint to the judge to address the violations of their rights, because, since the beginning of the trial, the lawyers have reportedly not been allowed to meet with their clients in private; the judge has not allowed them sufficient time to make counter questions against the prosecution witnesses; and their family members have not been allowed to attend the court hearings. Furthermore, it is alleged that the police and some plain-cloth persons have also been taking pictures and recording their voices during these hearings.

1923. During the trial, three defendants, Messrs Yan Naing Tun, Myo Kyaw Zin and Aung Min Naing (aka) Mee Thwe argued that they were released in June 2007 by the authorities, who claimed then that the authorities considered them as “sons and daughters” and gave them “great forgiveness”. Therefore, these three defendants reportedly requested the judge to summon the Minister of Home Affairs Mr Maj-Gen Maung Oo, and the Chief of Police Mr Brig-Gen Khin Yee as their defence witnesses. The judge rejected their request and asked their lawyers, Messrs Nyi Nyi Htwe and Saw Kyaw Kyaw Min, to control their clients. The two lawyers responded that they were to follow instruction made by their clients. Then the Prosecutor decide to sue the two lawyers along with Messrs Yan Naing Tun, Myo Kyaw Zin and Aung Min Naing (aka) Mee Thwe under Section 228 of the Penal Code, and issued a arrest warrant against Messrs Nyi Nyi Htwe and Saw Kyaw Kyaw Min.

1924. On 29 October 2008, Mr Nyi Nyi Htwe was reportedly arrested by the police, and on 30 October, he was sentenced by the Yangon Northern District Court to six months’ imprisonment reportedly for “interruption and insulting the judiciary proceeding” under Section 228 of the Penal Code. He was sentenced along with Messrs Yan Naing Tun, Myo Kyaw Zin and Aung Min Naing (aka) Mee Thwe. None of them were reportedly allowed to have legal representation. When Mr Nyi Nyi Htwe asked the judge to allow him to make his own defence, the judge threatened him with another lawsuit. They are all detained in Insein Prison. As for Mr Saw Kyaw Kyaw Min, he failed to appear on 30 October 2008 and his whereabouts are unknown as of today.

1925. Serious concern was expressed that the arrest warrant against Messrs Nyi Nyi Htwe and Saw Kyaw Kyaw Min, and the subsequent arrest and detention of Mr Nyi Nyi Htwe may be linked to their non-violent activities in defence of human rights. Further concern was expressed for their physical and psychological integrity while in detention. Finally, concern is expressed that these latest incidents may form part of a pattern of harassment against human rights defenders in Myanmar.

### **Response from the Government**

1926. In a letter dated 29 December 2008, the Government of Myanmar responded to the above communication. The letter stated that on 15 May 2007, at 7.30 am eleven persons marched from Hlaing Thatyar Township to Yangon-Nyaung Done Road wearing white color tee-shirts imprinted red color logo “Free Aung San Suu Kyi.”

1927.

1928. The group refused to disperse, for that reason the chief of police took legal actions against them on 3 July 2008. The information in the above communication is therefore incorrect, the correct date for the march was 15 May 2007, not 19 June 2007 and the date of their arrest was 28 August 2008.

1929. In response to the allegation that “lawyers have not been allowed to meet with their clients in private,” the letter stated that permission was given to the defendants to meet freely with their lawyers both in Insein prison and in the detention area of Hlaing

Township Court. Furthermore, defendants were allowed to make counter questions during the trial and their family members were allowed to attend the court hearings.

1930. On 30 October 2008, the court found that Yan Naing Tun, Myo Kyaw Zin, Aung Min Naing (a) Mee Thew and the lawyer U Nyi Nyi have violated the Section 2208 of the Penal Code and sentenced them to six months imprisonment without labour. Saw Kyaw Kyaw Min disappeared or went into hiding since and the authorities are searching for him. Legal actions against U Nyi Nyi and Saw Kyaw Kyaw Min are not in conflict with international human rights norms and standards.

### **Urgent appeal**

1931. On 5 November 2008, Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal to the Government concerning the case of Mr. **Min Ko Naing** and 34 other members of the so-called “88 Generation Students”, Mr. **Ko Ko Gyi**, Mr. **Pyone Cho (aka) Htay Win Aung**, Mrs. **Min Zeya**, **Mya Aye**, Mr. **Kyaw Min Yu**, Mr. **Zayya**, Mr. **Kyaw Kyaw Htway**, Mr. **Ant Bwe Kyaw**, Mr. **Pannate Tun**, Mr. **Zaw Zaw Min**, Mr. **Thet Zaw**, Mr. **Nyan Lin**, Mr. **Than Tin**, Mrs. **Sandar Min**, Mr. **Htay Kywe**, Mr. **Hla Myo Naung**, Mr. **Aung Thu**, Mr. **Myo Aung Naing**, Mrs. **Thin Thin Aye**, Mrs. **Thet Thet Aung**, Mrs. **Lay Lay Mon**, Mrs. **Hnin May Ag**, Mrs. **San San Tin**, Mrs. **Thara Phee Theint Theint Tun**, Mrs. **Aye Thida**, Mrs. **Ma Nweah Hnin Ye**, Mr. **Zaw Htet Ko Ko**, Mr. **Chit Ko Linn**, Mr. **Thaw Zin Tun**, Mr. **Aung Thike Soe**, Mr. **Saw Myo Min Hlaing**, Mr. **Tin Htoo Aung**, Mr. **Thein Than Tun** and Mr. **Min Han**.

1932. According to the new information received, starting on 27 August 2008, after over one year of detention without trial in Insein Prison, Min Ko Naing and 34 other members of the “88 Generation Students” have been brought before courts where they face charges under Section 130 (B) of the Penal Code, Section 4 of the Law Protecting the Peaceful and Systematic Transfer of the State Responsibility and the Successful Performance of the Functions of the National Convention against Disturbance and Opposition Endangering National Convention (SPDC Law No. 5/96), Section 17 and 20 of the Printers and Publishers Registration Act, Section 33 (A) of the Electronic Transactions Law, Section 17 (1) of the Unlawful Association Act, Section 505 (B) of the Penal Code, Section 32 (B) and 36 of the Television and Video Law and Section 24 (1) of the Foreign Exchange Regulation Act (1947) and Section 6 of the Law Relating to Forming of Organizations (SLORC Law 6/88) in a total of 21 trials.

1933. Their cases were initially heard by township courts and two district courts, but subsequently all transferred to the Rangoon Eastern District Court, the Yangon Western District Court and the Rangoon Northern District Court. It is alleged that all trials are held inside the Insein Prison Compound.

1934. During the hearing on 27 August, the defendants requested that their family members, the public, and media should be allowed to attend the hearing. In addition, they

demanded not to be handcuffed during the hearing. During the hearing on 10 September, during which they were still handcuffed, family members were allowed to attend the hearing; however, no access was granted to other people wishing to attend.

1935. During the court hearing on 29 October 2008, Min Ko Naing, Ko Ko Gyi, Mya Aye, Nyan Lin, Pyone Choe, Aung Thu, Hla Myo Naung, and Aung Naing stood up and complained about the lack of an independent judiciary and that their rights were not respected. The judge then charged them with Section 288 of the Penal Code for disturbing the court procedure and sentenced them to six-month imprisonment for each of them. Subsequently, the judge ordered security forces to remove the defendants from the court and adjourned the trial.

1936. On 30 October, Zaw Zaw Min was sentenced to two years of imprisonment with hard labor under the Section 505 (B) of the Penal Code.

### **Response from the Government**

1937. In a letter dated 29 December 2008, the Government of Myanmar responded to the above communication. The letter stated that even though it took a year to gather information to take legal actions and apprehend fugitives of the 88 Generation Students, which was acted upon group basis, they were brought before the courts by given remands to rules and procedures of the law. Cases of the 35 members of 88 Generation Students were brought before the ten special courts on 27 August, 2008. Permission was given to family members of the defendants to attend the court hearings and permission was furthermore given to the defendants to hire attorneys. It was therefore an open court hearing for the defendants since the above-mentioned rights and privileges. As stipulated by the law, they were handcuffed during court hearings and were not entitled to get bail.

1938. Nine defendants, Min Ko Naing, Ko Ko Gyi, Mya Aye, Htay Kyawe, Nyan Lin, Pyone Choe, Aung Thu, Hla Myo Naung, and Aung Naing were given 6 months imprisonment for intentionally insulting the public servant sitting in judicial proceedings. Zaw Zaw Min (a member of the 88 Generation Students) was sentenced to a total of 65 – 60 years imprisonment. The court hearings of the Min Ko Naing and 34 other members of the 88 Generation Students were carried out according to the law and the proceedings were in line with the Article 10 of the Universal Declaration of Human Rights.

### **Urgent appeal**

1939. On 12 November 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on the situation of human rights in Myanmar sent an urgent appeal to the Government concerning the case of Mr. **Zaw Min**, a human rights defender who was reportedly physically and psychologically tortured during his detention in Insein Prison between August and October 2007. After his release, Mr. Zaw Min documented human rights abuses which he had witnessed in prison.

1940. According to information received, in late November 2007, Mr. Zaw Min was detained under section 505 of the Myanmar Penal Code for sending false information abroad. Before his case was brought to court, on 26 March 2008, he was reportedly detained illegally by military intelligence. All witnesses in the trial were Special Branch police officers whose identities are known to us. One of these witnesses told the court that he got information about Mr. Zaw Min's activities when interrogating him. It is suspected that torture may have been used during these interrogations. No independent witnesses appeared in court.

1941. Concern was expressed that the detention of Mr. Zaw Min may be directly related to his documentation of human rights abuses in prisons. Further concern was expressed for the physical and psychological integrity of Mr. Zaw Min.

### **Urgent appeal**

1942. On 13 November 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights in Myanmar sent an urgent appeal to the Government concerning the case of Mr. **Aung Thein** and Mr. **Khin Maung Shein**, lawyers, representing members of the National League for Democracy in current criminal proceedings.

1943. According to the information received, on 7 November 2008, Mr. Aung Thein and Mr. Khin Maung Shein were sentenced to four months of imprisonment by the High Court for contempt of court, reportedly under section 3 of the Contempt of Courts Act. In October 2008, their clients had complained orally during judicial proceedings that they did not enjoy a fair trial. In order to show their distrust in the justice system, the lawyers' clients had expressed their wish to no longer be represented by their defense counsels. On 6 November 2008, a written complaint had been submitted in this regard by the two lawyers to the Hlaing Township Court which reported the complaint to the High Court. The judge hearing the case at the Hlaing Township Court had instructed the defendants to submit their complaints in writing through their legal counsels.

1944. In the evening of 7 November 2008, Mr. Aung Thein and Mr. Khin Maung Shein were arrested by the police and taken to local police stations. They were subsequently transferred to Insein prison where they are to serve four months of imprisonment.

### **Response from the Government**

1945. In a letter dated 12 January 2009, the Government of Myanmar responded to the above communication. The letter stated that Mr. Aung Thein and Mr. Khin Maung Shein orally presented to the court that they will repeal from representing as defence counsels of their clients. Due to their contempt against the judiciary system, Supreme Court (Yangon) heard their case on 6 November 2008 and sentenced them to four months

imprisonment each on 7 November 2008. The following day they were sent to Insein Prison.

1946. During the court hearing, the defendants have not given any complaints that they did not enjoy a fair trial nor give instruction to their lawyers not to be represented any longer. The two lawyers did not submit any written complaint to the court. They only submitted their letter of appeal to the Hlaing Township Court on 20 October 2008. To this end no further inquiry was being made since there was no complaint submitted to the court.

### **Observations**

1947. The Special Rapporteur thanks the Government for its responses to most of the communications, but regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications of 31 January 2008, 22 April 2008, 2 October 2008 and 12 November 2008. She considers response to her communications an important part of the cooperation of Governments with her mandate. She urges the Government to respond to the concerns raised by her, and provide detailed information regarding investigations undertaken, prosecutions as well as protective measures taken.

1948. The Special Rapporteur remains deeply preoccupied by the harsh sentences given to individuals who peacefully exercised their right to assembly in 2008. The closed-door hearings were held inside prisons by courts which reportedly lacked independence and impartiality. She demands that all detainees be retried in open hearings respecting fair trial standards and the release of their defence counsels.

1949. The Special Rapporteur strongly urges the Myanmar authorities to cease harassing and arresting human rights defenders for peacefully exercising their internationally recognized human rights.

## **Nepal**

### **Urgent appeal**

1950. On 16 July 2008, the Special Rapporteur, together with the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal to the Government concerning Ms **Laxmi Bohara**, member of the District Alliance of Women Human Rights Defenders, advocate of the right of women to good health, and Secretary of the Women's Empowerment Centre, and other women human rights defenders in Western Nepal.

1951. According to information received, on 6 June 2008, Ms Laxmi Bohara died when she took, or was forced to take, poison after having been physically abused by her husband. The work of Ms Laxmi Bohara in defense of women's rights had caused major

disagreement between her and her husband, as well as her husband's family. She had been physically abused by her husband and her mother-in-law and thrown out of the house on previous occasions.

1952. The police registered a First Information Report (FIR) on murder charges on 16 June, following intense advocacy by human rights defenders including the National Human Rights Commission, and international organizations. The husband of the deceased was arrested on 17 June and her mother-in-law soon after.

1953. It is alleged that the police investigation, after which it was concluded that Ms Bohara was not forced to take poison, was inadequate and insufficient. Among other issues, the police did not take statements of all witnesses; the son of the deceased was interviewed in the presence of his father, without a lawyer present; information from a statement by one member of the District Alliance of Women Human Rights Defenders was reportedly provided to friends and relatives of the suspects; the autopsy was done by a relative of the husband of the deceased; and while the autopsy report stated that poison was found in the body of the deceased, it reportedly did not state a cause of death or mention bruises which were observed and photographed by women human rights defenders.

1954. The police investigation was completed on 2 July and the case was submitted to the District Court. The mother-in-law was released on 2 July based on an order of the Public Attorney and the husband was released, on bail, on 4 July based on an order of the District Court. Ms Bohara's father apparently submitted an application requesting custody of Ms Bohara's children, but their whereabouts were unclear.

1955. After the filing of the FIR, the Alliance of Women Human Rights Defenders in Kanchanpur district, in particular the Secretary of the District Alliance of Women Human Rights Defenders, were allegedly subjected to an intimidation campaign by friends and family of Ms. Bohara's husband and mother-in-law. On 2 July the Alliance submitted a written complaint to the police listing several security incidents in this respect. These incidents created a climate of fear within the human rights defenders community in Kanchanpur. The police response to the complaint was allegedly inadequate, and no investigation was conducted. Due to protection concerns, one member of the Alliance of Women Human Rights Defenders relocated to Kailali district on 3 July. On 5 July, the National Human Rights Commission's regional office published a press release drawing attention to the threats to the Alliance of Women Human Rights Defenders and the insufficient response of the authorities.

1956. On 13 July, the women human rights defenders from mid-Western and far Western Nepal went on relay hunger strike in Maitighar Mandala in Kathmandu, demanding a Commission to investigate the killing of Laxmi Bohora, a High-level Commission to address all forms of violence against women and guarantee security of women human rights defenders.



1957. In the district of Kanchanpur in Nepal, women human rights defenders face death threats, attacks and harassment because of their work. Gender-based violence is reportedly widespread in Nepal, common among women regardless of their social, economic and cultural status. At present there is no specific law addressing domestic violence in Nepal.

1958. It was alleged that the death of Ms Laxmi Bohara may be directly related to her activities in the defense of human rights, in particular her work to defend the rights of women in Nepal. In view of the incident outlined above, serious concern was expressed for the physical and psychological integrity of Ms Bohara's children. Concerns were further expressed for the safety of women human rights defenders associated with Ms. Bohara.

### **Urgent appeal**

1959. On 25 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal to the Government concerning members of the National Alliance of Women Human Rights Defenders (NAWHRD), Ms **Bharati Singh**, Ms **Sharda Chand**, Ms **Naru Singh** and Ms **Kalsa Mahara**. On 16 July 2008, an urgent appeal was sent to the Government regarding the death of Ms Laxmi Bohara, member of the NAWHRD, on 6 June 2008, and threats against other NAWHRD members. No response has yet been received from the Government. Members of the NAWHRD have been investigating Ms Bohara's death, in particular in connection with women rights defenders' protection concerns.

1960. According to information received, on 21 and 28 June 2008, Ms Bharati Singh received anonymous telephone calls, threatening that she would face "bad consequences" if she continued with her investigations into the death of Ms Laxmi Bohara. On 17 June Ms Kalsa Mahara also received an anonymous threatening telephone call. Ms Sharda Chand has also been the victim of over twelve anonymous telephone calls in which she has received death threats and has been told not to intervene in Ms Laxmi Bohara's case. On one occasion she was told that the members of the NAWHRD would be killed within seven days if investigations into Ms Laxmi Bohara's case continued. Furthermore, in the morning of 27 June 2008, Ms Sharda Chand was knocked down by an unknown motorcyclist. She sustained minor injuries. That afternoon Ms Naru Singh and Ms Kalsa Mahara were returning from a meeting of women human rights defenders by motorcycle when an unknown cyclist tried to stop them twice and briefly pursued them. On 2 July, Ms Sharda Chand, Ms Kalsa Mahara and Ms Bharati Singh filed a joint complaint on those incidents at the Kanchanpur District Police Office.

1961. In the afternoon of 2 July 2008, a group of twenty or thirty men reportedly led by the brother of the late Ms Laxmi Bohara's husband came to the district office of the NAWHRD and threatened Ms Sharda Chand. The mother-in-law of the late Ms Laxmi Bohara also went to the office with a group of women and shouted that the office should

be set on fire and Ms Sharda Chand should be killed. The crowd surrounded and entered her office, but was dispersed shortly after upon arrival of the police. Ms Sharda Chand was also threatened by a similar group which had gathered outside her house. Ms Sharda Chand filed two written complaints and some additional verbal complaints at the Kanchanpur District Police Office about these incidents.

1962. Concern was expressed that the threats and intimidation of the aforementioned members of the NAWHRD may be related to their legitimate work in the defense of human rights, in particular their investigations into the death of Ms Laxmi Bohara. Further concern was expressed for the physical and psychological integrity of the members of the NAWHRD.

### **Observations**

1963. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to the communications of 20 June 2007, 16 July 2008 and 25 July 2008. She considers response to her communications an important part of the cooperation of Governments with her mandate. She urges the Government to respond to the concerns raised by her, and provide detailed information regarding investigations undertaken as well as protective measures taken.

1964. The Special Rapporteur reiterates her grave concerns on the killing of Ms Laxmi Bohara, and the threats and intimidation of the human rights defenders who have investigated into her death. She urges the Government to send detailed information on the progress of the investigations, on subsequent prosecutions as well as on protective measures taken.

1965. The Special Rapporteur hopes that the Government of Nepal will respond favourably to her request of November 2008 to visit the country in order to resume the dialogue with the authorities.

## **Nicaragua**

### **Carta de alegaciones**

1966. El 14 de enero de 2008, la Representante Especial, junto con la Relatora Especial sobre la violencia contra la mujer, señaló a la atención urgente del Gobierno la información recibida en relación con las Sras **Ana María Pizarro, Juana Antonia Jiménez, Lorna Norori Gutiérrez, Martha María Blandón, Luisa Molina Arguello, Martha Munguía Alvarado, Mayra Sirias, Yamileth Mejía Palma y Violeta Delgado Sarmiento**. Las personas mencionadas son líderes de organizaciones de mujeres y niñez. Ellas forman parte de diferentes redes y movimientos, incluyendo la Red de Mujeres contra la Violencia, la Coordinadora de la Niñez y Adolescencia en Nicaragua y Campaña 28 de septiembre.

1967. Según la información recibida, las susodichas habrían sido denunciadas ante el Ministerio Público por supuestos delitos contra la administración de justicia. Se informa que ellas habrían solicitado una copia de la denuncia desde el 29 de diciembre del 2007, pero el Ministerio Público les habría negado acceso a esta información. La Fiscal Mirna Siles Herrera, del Ministerio Público, se habría limitado a hacer una lectura oral de dicha denuncia. Se temía que la denuncia contra las personas arriba mencionadas pudiera estar relacionada con sus actividades en defensa de los derechos humanos, en particular su lucha contra la penalización del aborto terapéutico.

### **Respuesta del Gobierno**

1968. Mediante carta fechada 13 de mayo de 2008, el Gobierno respondió a la Carta de Alegaciones. La carta comunicó que el 9 de octubre del 2007, el Licenciado Roberto José Petray en su calidad de representante legal de la Asociación Nicaragüense Pro derechos Humanos (ANPDH), presentó escrito ante el Ministerio Público en el que denuncia a las señoras Sras Ana María Pizarro, Juana Antonia Jiménez, Lorna Norori Gutiérrez, Martha María Blandón, Luisa Molina Arguello, Martha Munguía Alvarado, Mayra Sirias, Yamileth Mejía Palma, Violeta Delgado Sarmiento y Maraña de los Santos Esquivel Reyes, en el grado de cooperadoras necesarias del delito de la adolescente RR delito contra la administración de justicia y autoras de los delitos de asociación e instigación para delinquir y de la apología del delito en perjuicio de la sociedad del Estado nicaragüense, misma que fue presentada nuevamente el 32 de octubre del 2007, siendo radicadas ambas en el Ministerio Público bajo el No 4849 y 5522, respectivamente.

1969. Según la carta, una niña de nacionalidad nicaragüense, a mediados del año 2002, en Turrialba, Costa Rica, fue víctima del delito de violación, y que producto de la violación, la víctima quedó embarazada. Que, el 8 de febrero del año 2003, la Sra. Violeta Delgado se reunió en la sede de la “La Red de mujeres contra la violencia” para informar a las instituciones del Estado, que ellas (las denunciadas) habían decidido y acordado intervenir en el caso para interrumpir el embarazo de la niña, por que enviaron a un grupo de mujeres a Costa Rica, quienes tenían la misión de llevarse a escondida a la niña al esconderla en un motel.

1970. La carta comunicó que las leyes de Costa Rica no permiten el aborto terapéutico después de las 12 semanas de embarazo, las señoras denunciadas realizaron las siguientes acciones; entre el 10 y 11 de febrero del año 2003, la niña fue sacada del Hospital Calderón Guardia en San José, Costa Rica, y escondidas en el motel “Los Yoses” en contubernio con el Sr. Francisco Leonardo Fletes Sánchez, padrastro de la niña y su madre María de los Ángeles Esquivel Reyes. El 12 de febrero, junto con la niña, se trasladaron a Nicaragua, obstruyendo el proceso de justicia judicial que se llevaba en Costa Rica, impidiendo además que el Estado de Nicaragua brindara debida protección a los derechos de la niña. Asimismo, las denunciadas coludidas con el Sr. Francisco Leonardo Fletes Sánchez, padrastro de la niña, y hoy confeso del delito de la violación en perjuicio de la menor, promovieron el aborto de la niña en una clínica particular clandestina. El 9 de agosto del 2007, la autoridad administrativa ordenó el traslado de la adolescente a un centro de protección.

1971. La carta informó que en cuanto a las acciones desplegadas para la aclaración de los hechos denunciados, el Ministerio Público se encuentra realizando actos de investigación en aras de obtener elementos de convicción que permitan establecer con certeza los hechos referidos en las denuncias. El Ministerio aún no ha determinado si procede o no el ejercicio de la acción penal, por lo que aun continúan la investigación. Asimismo, el Gobierno aseguró que informará sobre las acciones desplegadas para esclarecer los hechos denunciados por el Sr. Roberto José Petray una vez que concluya la etapa investigativa.

### **Observaciones**

1972. La Relatora Especial agradece al Gobierno de Nicaragua la respuesta proporcionada a su comunicación de 14 de enero de 2008.

## **Niger**

### **Appel urgent**

1973. Le 20 mai 2008, la Rapporteuse spéciale a envoyé un appel urgent sur la situation de M. **El Hadj Ahamadou Ahalawey**, Vice-Président de la Commission Nationale des Droits de l'Homme et des Libertés Fondamentales (CNDHLF), leader tribal touareg et représentant du Parlement dans la zone de Tanout contrôlée par le groupe armé rebelle Mouvement nigérien pour la justice (MNJ), ainsi que de son neveu, M. **Harouna Sidi Mahmoud**, âgé de 18 ans. Selon les informations reçues :

1974. Dans la nuit du 14 mai 2008, M. El Hadj Ahamadou Ahalawey aurait été enlevé par un groupe de personnes armées censées appartenir au MNJ, alors qu'il conduisait une mission de sensibilisation aux droits de l'homme dans la région de Zinder, à quelques kilomètres de Tanout. Son neveu, M. Harouna Sidi Mahmoud, qui l'accompagnait au cours de cette mission en qualité de chauffeur, aurait également été enlevé.

1975. Cet incident ferait suite aux désertions de 70 membres du MNJ et à leur intégration subséquente dans des projets gouvernementaux de développement, en raison de l'intervention de M. El Hadj Ahamadou Ahalawey qui aurait convaincu ces membres de quitter le MNJ. Ainsi, M. El Hadj Ahamadou Ahalawey serait accusé de trahison par le MNJ et son enlèvement serait lié à ses activités de promotion de la paix dans le nord du Niger ayant débouché sur ces désertions. En janvier 2008, M. El Hadj Ahamadou Ahalawey aurait échappé à une première tentative d'enlèvement. En effet, des hommes armés se seraient rendus à son domicile situé dans la localité d'Arlit et auraient demandé à voir M. El Hadj Ahamadou Ahalawey, mais celui-ci était alors absent.

1976. Des craintes ont été exprimées quant au fait que l'enlèvement de M. El Hadj Ahamadou Ahalawey et M. Harouna Sidi Mahmoud soit lié à leurs activités non-violentes de promotion des droits de l'homme. Des craintes ont également été exprimées

quant à l'intégrité physique et mentale de M. El Hadj Ahamadou Ahalawey et M. Harouna Sidi Mahmoud.

### **Observations**

1977. La Rapporteuse spéciale regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 20 mai 2008. Toutefois, elle exprime son soulagement quant à la libération le 25 mai de MM. El Hadj Ahamadou Ahalawey et Harouna Sidi Mahmoud.

## **Nigeria**

### **Letter of allegations**

1978. On 21 January 2008, the then Special Representative sent a letter of allegations concerning the death of Mr **Alhaji Saula Saka**, the Lagos State Chairman of the National Union of Road Transport Workers.

1979. According to information received, on 6 January 2008, Mr Alhaji Saula Saka was reportedly shot by four unidentified men at his residence in Iyana Ipaja. He was rushed to the Lagos State University Teaching Hospital at Ikeja as he had sustained severe gunshot wounds. He was declared dead at 9.30pm. Serious concern was expressed that the killing of Mr Alhaji Saula Saka may have been related to his non-violent activities in defense of human rights, in particular his trade union activities.

1980. Serious concern was expressed that the killing of Mr Alhaji Saula Saka may be related to his non-violent activities in defence of human rights, in particular his trade union activities.

### **Urgent appeal**

1981. On 17 April 2008, the then Special Representative, jointly with the Vice-Chairperson of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal on the situation of Ms. **Sandy Cioffi**, Ms. **Tammi Sims**, Mr. **Cliff Worsham**, Mr. **Sean Porter**, U.S. citizens and members of a Seattle-based film crew currently working in the Niger Delta on a documentary film project about the harmful impact of oil production on the human rights and environmental situation in the Niger Delta since 2005 entitled "Sweet Crude", and Mr. Joel Bisina, Nigerian citizen and founder of an organization named "Niger Delta Professionals for Development". According to the information received:

1982. After having entered the country legally on 5 April 2008 and informing the competent authorities about their intention to work on a film, the above-mentioned persons were arrested by forces of the military Joint Task Force under the command of

Brigadier-General Rimtiip Wuyep on 12 April in the Delta State while travelling on a boat near the town of Warri. The reason given for their arrests was that they were travelling without military clearance. Reportedly, no laws require such clearance.

1983. Following a six-hour interrogation by Brigadier-General Wuyep they were ordered to be placed into custody and transferred to a detention facility of the State Security in Abuja, where they are currently held without charge. Their defence lawyer, Mr. Bello Lubebe, has been denied access to his clients in the detention facility.

1984. Concern was expressed that the arrest and detention of the abovementioned persons might be solely connected to their reportedly lawful exercise of their right to freedom of opinion and expression, which includes the right to seek, receive and impart information and ideas of all kinds. In view of their incommunicado detention, further concerns were expressed as regards their physical and mental integrity.

### **Letter of allegations**

1985. On 20 August 2008, the Special Rapporteur, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations on the situation of Mr **Mallam Nuhu Ribadu**, former Chairman of the Economic and Financial Crimes Commission. According to the information received:

1986. On 5 August 2008, Mr Mallam Nuhu Ribadu was reportedly demoted from the rank of Assistant Inspector-General of Police to Deputy Commissioner of Police allegedly because his “promotion was irregular and done without regard for the laws guiding such exercise”. Attempts were also reportedly made to arrest him in Kuru, Jos, for questioning. However, it is alleged that these measures were taken on a retaliatory basis to prevent him from investigating alleged corruption of State officials and politicians.

1987. Concern was expressed that the demotion of Mallam Nuhu Ribadu and the reported attempts to arrest him may be linked to his non-violent activities in defense of human rights, i.e. his anti-corruption work.

### **Urgent appeal**

1988. On 1 September 2008, the Special Rapporteur, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal on the situation of Mr Ibrahim Magu, a former official of the Economic and Financial Crimes Commission (EFCC). According to the information received:

1989. On 5 August 2008, Mr Ibrahim Magu was reportedly arrested for possessing documents related to the EFCC’s investigations into alleged corruption of Government officials. Mr Magu remains in detention and no charges have reportedly been brought against him.

1990. Concern was expressed that the arrest and detention of Mr Ibrahim Magu may be linked to his non-violent activities in defense of human rights, i.e. his anti-corruption work. Further concern was reported for his physical and psychological integrity.

### **Urgent appeal**

1991. On 9 September 2008, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal on the situation of Mr **Andrew Berends**, an award-winning freelance filmmaker and journalist from the United States of America and Mr Samuel George, a translator from Nigeria. According to information received:

1992. In the afternoon of 31 August 2008, Mr Andrew Berends along with his translator, Mr Samuel George were arrested by members of the Nigerian Security Services, in the southeastern city of Port Harcourt. They were then transferred to the local headquarters of the State Security Service. Mr Berends and Mr George were reportedly subjected to 36 hours of questioning, with no food and little water. Mr Berends was then provisionally released overnight without charge but ordered to return the following morning. His passport, mobile phone and film equipment were confiscated. Mr Berends and Mr George remain in detention on charges of espionage.

1993. Prior to his arrest, Mr Berends had legally entered Nigeria in April 2008 to complete a documentary he had been working on called "Delta Boys". The film is sponsored by the New York based Tribeca Film Institute and documents the ongoing oil conflict in the Niger Delta.

1994. Concern was expressed that the aforementioned events may be solely connected to the reportedly lawful exercise of Mr Andrew Berends and Mr Samuel George's right to freedom of opinion and expression, which includes the right to seek, receive and impart information and ideas of all kinds.

### **Observations**

1995. The Special Rapporteur thanks the Government for its responses, but regrets that at the time of the finalization of this report, the Government had not transmitted a reply to the communications of 2005 (1), 2006 (2), 2007 (3) and 21 January 2008, 17 April 2008, 20 August 2008, 1 September 2008 and 9 September 2008. She considers response to her communications an important part of the cooperation of Governments with her mandate. She urges the Government to respond to the concerns raised by her, and provide detailed information regarding investigations undertaken as well as protective measures taken.

1996. The Special Rapporteur reiterates her concern at the plight of human rights defenders who denounce the human rights and environmental situation in the Nigeria Delta region.

## **Pakistan**

### **Letter of allegations**

1997. On 18 January 2008, the then Special Representative, together with together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation to the Government concerning Ms **Saima Khawaja**, student at LUMS Law Faculty, Ms **Erum Hassan**, lawyer, Mr **Ahmed Basheer**, lawyer, manager in Warid's Legal Affairs Department, Mr **Ikhlas Ahmed**, driver of activist **Umair Hassan** - junior faculty at FAST-NUCES, Mr **Amanullah Kariapper**, LUMS alumnus and software engineer, Mr **Mohammed Afaq**, lawyer, Mr **Raza Mahmud**, pharmacist at Fatima Memorial Hospital, Mr Omar Pervaiz Kausar, software engineer, Mr Jawaid Amin, social activist and Mr Hassan Rehman, Master's student at FAST-NUCES.

1998. According to the information received, on 6 December 2007 at around 10pm, Ms Saima Khawaja, Ms Erum Hassan, Mr Ahmed Basheer, Mr Ikhlas Ahmed, Mr Amanullah Kariapper, Mr Mohammed Afaq, Mr Raza Mahmud, Mr Omar Pervaiz Kausar, Mr Jawaid Amin and Mr Hassan Rehman were arrested by the police while holding a peaceful candlelight vigil at the residence of Justice Siddiqui located in the Judges' Colony in G.O.R. Lahore. At the time of arrest, they were sitting inside the said Justice's residential premises in the compound. Their presence was part of a 24-hour voluntary vigil organised by the Student Action Committee and other social activists to prevent the police from forcefully evicting Justice Siddiqui and his family from his residence.

1999. The arrested were reportedly initially taken to the Race Course police station, and in the early morning of 7 December moved to Manawa Thana near the Wagah border. Later that day they were presented in front of the magistrate at the Lahore Kutchhery and were charged under the Maintenance of Public Order Act for allegedly disturbing local residents of G.O.R.. They were also charged under Section 8 of the Anti-Terrorism Act by the Anti-Terrorism Court located near Dharampura. The men were sent to Camp Jail on Ferozepur Road under judicial remand while the two women were sent to the Kot Lakhpat Jail.

2000. On 9 December, Ms Saima Khawaja and Ms Erum Hassan were released on bail. On 10 December, the male detainees were transferred from the Camp Jail to house arrest at Mr Kariapper's house. On 11 December, the Government dropped all charges against the 10 persons. While welcoming the release of all the aforementioned persons, concern was expressed that their arrest and detention may have been linked to their peaceful activities in defense of human rights.

### **Letter of allegations**



2001. On 21 January 2008, the then Special Representative, together with together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation to the Government concerning Mr **Kamran Noorani**, Mr **Salahuddin Ahmed**, Mr **Naveed Noshad**, Mr **Danish**, Mr **Muhammad Faisal**, Mr **Syed Mustafa Rizvi**, Mr **Zafar Aslam** and Mr **Asad Umar**, all members of civil society organizations, who were arrested during the violent dispersal of a peaceful protest outside the Karachi residence of Mr. Justice Rana Bhagwandas.

2002. According to the information received, on the evening of 13 January 2008, protesters belonging to civil society groups reportedly gathered outside the Karachi residence of Justice Rana Bhagwandas and began to light candles. At this time, police arrived and allegedly used excessive force to disperse the protesters. The aforementioned were arrested and reportedly taken to Darakhshan Police Station, where they were allegedly charged with 'rioting armed with deadly weapons'. Initially the aforementioned were allegedly held incommunicado, but family and lawyers were later informed of their location. Those detained were reportedly released on bail approximately five hours after the arrest. The police allegedly tried to force these activists to sign an undertaking abjuring future participation in any protest as a condition of bail; however, this was withdrawn upon the refusal of those detained to sign such a document.

2003. The protest reportedly arose from the placing under house arrest, on 12 January 2008, of Mr Justice Rana Bhagwandas, who had been removed on 3 November 2007 under the emergency powers decreed by President Musharraf. The Justice's house arrest reportedly came after he addressed the Karachi Bar Association. It is reported that no formal orders of detention were served on the judge; the police authorities allegedly informed him that he would not be allowed to leave his residence and posted police guard outside the house.

2004. Concern was expressed that the arrests of the aforementioned may have been directly related to their human rights activities. Further concern was expressed for the allegedly excessive force used by police during the dispersal of the protest as well as for the placing under house arrest of Mr Justice Rana Bhagwandas, and the restrictions placed on his freedom of movement.

### **Response from Government**

2005. In a letter dated 23 July 2008, the Government of Pakistan responded to the above communication. The letter stated that, on 13 January 2008, 20 to 25 people with sticks and banners gathered outside a house in Karachi, blocked the road and demonstrated against the Government. The gathering later became an unlawful when it turned into a riot. The rioters did not cooperate when the police asked them to stop rioting. The six men mentioned above were therefore arrested while other rioters fled. No excessive force was used by the police and none of the human rights of the rioters were violated. All police action was carried out in accordance with the law. Mr Justice Rana Bhagwandas was not under house arrest, nor was any restriction placed on his freedom of movement. A case was registered against the six arrested men at Clifton Police Station (FIR No.

13/08/ under section 147/148/PPC). They were held at Darakshan police station before being released on their personal bonds being charged on a bail-able offence. Their families and lawyers were informed of their arrest.

### **Letter of allegations**

2006. On 18 March 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation to the Government concerning the ban of the report of the non-governmental organisation **Asian Centre for Human Rights (ACHR)**, entitled “Pakistan: The Land of Religious Apartheid and Jackboot Justice: A report to the UN Committee Against Racial Discrimination” and dated of 8 August 2007, as well the situation of the members of the non-governmental organisation National Commission for Justice and Peace (NCJP).

2007. According to the information received, at its 71st session in August 2007, the Committee for the Elimination of Racial Discrimination (CERD) intended to review the implementation of the International Convention on the Elimination of Racial Discrimination by the Government of Pakistan in the absence of the 15th to 19th periodic reports of the State party which were overdue. In conformity with the established procedure of the treaty body system enabling non-governmental organisations to submit information to the members of the Committee, ACHR submitted the above-mentioned report. The report was made later available on the website of ACHR.

2008. On 25 January 2008, the Secretary to the Home Department Office of the Punjab Province issued the notification No. So (IS-III) 1-1/2004/Pt.II banning the publication of the above-mentioned report. The notice reads as follows: “WHEREAS, it has come to the knowledge of the Government of the Punjab that Asian Centre for Human Rights (ACHR) based at New Delhi, India has published a highly charged and biased report “Pakistan: The Land of Religious Apartheid and Jackboot Justice”. The report is being distributed in Pakistan through “National Commission for Justice and Peace” which is an NGO floated/registered by the Catholic Church of Pakistan. Now, THEREFORE, in exercise of the powers conferred by Section-99-A Cr. P.C-1898, the Government of the Punjab is pleased to ban the above mentioned report and order to confiscate to the Government all its copies wherever found in the open market with the immediate effect and to take necessary action against the distributors under the relevant law.”

2009. Section 99-A of Pakistan Criminal Procedure Code criminalizes matters which are allegedly “treasonable, a seditious, prejudicial to national integration (of Pakistan), abets riots, which is deliberately and maliciously intended to outrage the religious feelings of such class by insulting the religion or the religious beliefs”. The offences are punishable under sections 123A, 124A, 154, section 295A, section 298A and section 298B and section 298C of the Pakistan Penal Code. Anyone found guilty of charges under these sections can be punished with life imprisonment. The notification by the Home Department of the Punjab is legally treated as a complaint registered against NCJP. However, NCJP had reportedly no role either in the drafting of ACHR’s report or its

distribution. ACHR prepared the report based on standard methodology, including reports of various NGOs and media.

2010. On 4 March 2008, Father Emmanuel Yousaf, Mr Mehboob Ahmed Khan and Mr Peter Jacob, officers of NCJP, were summoned to appear before the Home Department Office of the Punjab Province on 10 March 2008. The 3 men went to the Home Department Office on 10 March as summoned, but the meeting did not take place since the Additional Secretary on Internal Security was reportedly not available.

2011. Concern was expressed that the ban imposed on the above-mentioned report of ACHR as well as the acts of intimidation against members of NCJP may be related to the non-violent activities of the two organizations in defense of human rights. Further concern was expressed that the ban of the ACHR report concerns a report submitted to a United Nations human rights treaty body.

### **Response from the Government**

2012. In a letter dated 28 March 2008, the Permanent Mission acknowledged receipt of the communication sent on 18 March 2008 and informed that it had been transmitted to Islamabad for serious consideration and response.

### **Urgent appeal**

2013. On 21 April 2008, the then Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government concerning Mr **Parvez Aslam Choudhry**, lawyer and Chairman of the non-governmental organization Legal Aid for the Destitute and Settlement (LADS) in Lahore.

2014. According to information received, on the night of 8 April 2008, Parvez Aslam Choudhry received an anonymous telephone call threatening both him and his family. Mr Choudhry was reportedly told he was to be killed because he was a Christian lawyer defending a Christian person accused of blasphemy. Similar threats were also made against him inside the court by witnesses.

2015. On 6 April 2008, Parvez Aslam Choudhry was reportedly attacked by a large mob when he arrived at court for the bail hearing in the aforementioned blasphemy case. His car was damaged and the mob threatened to kill him. Parvez Aslam Choudhry's application for the court to take legal action was accepted but it was believed that no action had yet been taken.

2016. Concern was expressed that the harassment, intimidation and death threats made against Parvez Aslam Choudhry may be directly related to his peaceful work in defense of human rights. In view of the above-mentioned threats, serious concern was expressed for the physical and psychological integrity of Mr Choudhry, as well as that of his family members.

### **Response from the Government**

2017. In letters dated 22 April 2008 and 15 October 2008, the Government responded to the communication sent on 21 April 2008. The Government reported that the matter was referred to the authorities concerned for necessary investigation and response. In response, the concerned authorities have confirmed that they have neither received information regarding alleged harassment or death threats to Mr Pervez Aslam Choudary, nor has any complaint been lodged by Mr Choudary in this regard. The Government further noted that Mr Choudary has to lodge an official complaint for necessary action under the law to be taken for his safety and security.

### **Urgent appeal**

2018. On 25 April 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government concerning the killing of at least 14 people, including Mr **Haji Aftab Abbasi**, a lawyer and Mr **Naeem Querashi**, General Secretary of the Karachi Bar Association, and a number of others beaten or disappeared following recent outbursts of violence in Karachi.

2019. According to information received, on 9 April 2008, 14 people reportedly died in Karachi following a series of violent incidents in which six of the deceased, four lawyers, including Mr Haji Aftab Abbasi and two clients, were reportedly burned alive. Reports from the Karachi Bar Association indicate that the whereabouts of 19 lawyers remain unknown and that they may have been abducted. More than 70 offices were reportedly ransacked and burned, including the office, residence and vehicle of Mr Naeem Querashi. The offices of the Malir Bar Association were also razed. In addition, five journalists were severely beaten, with one, a female journalist working for a local television channel, sustaining a fractured arm in the incident. More than 50 vehicles were reportedly vandalized and burnt-out and the drivers of two private busses were shot dead.

2020. It was reported that these attacks, killings, burnings and abductions were carried out by members of a the Muttahida Quami Movement (MQM), allegedly following-up violent clashes between MQM members protesting outside the city court buildings and lawyers demonstrating in favour of the deposed Chief Justice. It was unknown whether any arrests had been made in connection with the aforementioned incidents.

2021. Concern was expressed that these most serious incidents could be related to the activities of the lawyers in defense of human rights, of the exercise of their right to freedom of expression and of the independence of the judiciary in Pakistan. In light of these very serious reports, grave concern was expressed for those lawyers whose whereabouts remain unknown.

### **Response from the Government**

2022. In a letter dated 25 April 2008, the Permanent Mission acknowledged receipt of the communication sent on 25 April 2008 and informed that it had been transmitted to Islamabad for serious consideration and response.

### **Letter of allegations**

2023. On 17 June 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent a letter of allegation to the Government concerning the arrest and detention of Mr **Abdul Wahab Baloch**, Chief organiser of the Baloch Rights Council and well known peace activist, and Mr **Gulam Mohammad Baloch**, President of the Balochistan National Movement. Both organisations are based in Karachi, Pakistan.

2024. According to information received, in the afternoon of 28 May 2008, Mr Abdul Wahab Baloch and Mr Gulam Mohammad Baloch were arrested while returning from a peaceful demonstration in Karachi. The protest had been organised by the Baloch National Front, to mark the tenth anniversary of nuclear tests carried out by Pakistan in the southern province of Chaghi, Balochistan in 1998, and to call for respect for basic human rights for the local population. Both Mr Wahab Baloch and Mr Mohammad Baloch were speakers at the event.

2025. After the demonstration, Mr Wahab Baloch and Mr Mohammad Baloch went to the Human Rights Commission of Pakistan in Karachi, where they were due to attend a meeting to discuss the issue of disappearances in Balochistan. Before reaching the Commission they were arrested by a number of individuals who covered their heads before forcing them into heavy duty jeeps. Mr Mohammad Baloch and Mr Wahab Baloch were taken to the Central Crime Investigation unit in Karachi, where they were detained overnight. In the early hours of the following morning, Mr Mohammad Baloch was relocated to the Frere Police station where he was detained for a number of hours before being released on bail later that day. He was charged with delivering a provocative speech.

2026. Mr Wahab Baloch was beaten repeatedly with fists, boots and sticks during the night of 28 May, whilst being interrogated about bombings in Balochistan. On the morning of 29 May, Mr Wahab Baloch was transferred to an unknown location in an unregistered vehicle linked to several cases of missing persons. Later that same day he was injected with an unknown drug which invoked feelings of numbness and he subsequently lost consciousness for a number of hours. On 31 May, Mr Wahab Baloch was again transferred to another location, where he was interrogated about the Watan Brigade, an unknown militant organisation. During his detention Mr Wahab Baloch was moved on a number of occasions, subjected to ill-treatment, held in solitary confinement in small dark cells and severely beaten. His whereabouts were not known until 2 June 2008, when he was transported by jeep to Kala Pull Bridge in Karachi and thrown out of the vehicle. He did not sustain any injuries on this occasion and was able to then make

his way home.

2027. It was feared that the detention and alleged ill-treatment of Mr Abdul Wahab Baloch and Mr Gulam Mohammad Baloch might be related to their activities in defense of human rights. Concern was also expressed that the afore-mentioned incident may represent a direct attempt to restrict the right to freedom of opinion and expression in Pakistan.

### **Urgent appeal**

2028. On 1 December 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal regarding ongoing threats and harassment against the Peshawar branch of **Shirkit Gah** and the **Strengthening Participatory Organization** (SPO). Shirkit Gah is a non-governmental organization (NGO) based in Lahore, which works on women's rights. The SPO is an NGO based in Dera Ismail Khan, which works on development and education.

2029. According to information received, on 20 December 2007, an unknown man called the Peshawar office of Shirkit Gah, threatening that the office would face dire consequences if it were not closed. The NGO immediately informed the police. On 9 August 2008, an email signed by signed by an individual, whose identity is known, from the extremist group Tehreeke Taliban, Pakistan. The email ordered Shirkit Gah to close its office in Peshawar, mentioning that the NGO was working on women's rights issues and expressing the general wish to end NGO activities in the region. In particular objections were raised to female employees not wearing their veils and thereby tempting people towards sinful activities; to females coming out of the office and associating with people other than their relatives; to men having immoral relations with female employees; and to members of staff having had relations with prostitutes. The message claimed that there were photographs and videos to support all of these accusations. The Peshawar office of Shirkit Gah was then threatened that, if it did not take action based on this email, loss of life and of property would ensue. Shirkit Gah was also warned not to share the message with Government officials.

2030. On 4 November 2008, an email signed by Talib bhai (Talib brother) was sent to Shirkit Gah stating that the NGO mobilized women to participate in processions and warning for the last time that the office would have to be closed. The email threatened that, if the office was not closed, the consequences would be alarming: the women working for Shirkit Gah would be kidnapped and killed.

2031. On 8 November 2008, another email, signed by Faqat Talib Apko Sedha Rasta Dhekana y Wala (Talib – lead you for the right path), was sent telling Shirkit Gah that it had not acted on previous warnings and had thereby shown no care for the lives of its members. The email explained that there would be no more chances for Shirkit Gah and that the office would be bombed. It blamed the Shirkit Gah for women divorcing and

being able to approach the courts, claiming that there would be no pardon for the NGO and that it would have to face the consequences.

2032. Meanwhile, in May 2007, the Dera Ismail Khan office of the SPO began to receive threats by phone and mail. On 30 October 2007, at approximately 2.15 a.m., the staff hostel of the SPO in Battagram was bombed. Twelve staff members were injured with two of them being critically injured. Office equipment worth approximately 292,000 rupees was destroyed and the damage to the rented building reportedly cost 500,000 rupees. First Information Report (FIR) 422 was lodged at Battagram police station on the same day at approximately 2.45 a.m. On 27 September 2008, the offices of the SPO were looted, resulting in total loss of approximately 10 million rupees. FIR 549 was lodged at Cantt police station on the same day. In the same region, seven other bomb attacks were directed against NGOs and other organizations in 2007, namely the Peshawar office of the International Committee of the Red Cross (ICRC), the Battagram office of Save the Children, the offices of the National Rural Support Program in Ushu Kalam and Buner, and the office of Khwendo Kor in Karak.

2033. Concern was expressed that the threats and harassment against Shirkit Gah and the SPO may have been related to their work in the defense of human rights, in particular women's rights in the case of Shirkit Gah. Further concern was expressed for the physical and psychological integrity of the members of Shirkit Gah and the SPO. Fear was expressed that these incidents formed part of an ongoing trend of harassment against NGOs in the North West Frontier Province of Pakistan.

### **Response from the Government**

2034. In a letter dated 1 December 2008, the Permanent Mission acknowledged receipt of the communication sent on 1 December 2008 and informed that it had been transmitted to Islamabad for serious consideration and response.

### **Observations**

2035. The Special Rapporteur wishes to thank the Government of Pakistan for the responses transmitted to the communications of 21 January 2008 and 21 April 2008. The Special Rapporteur urges the Government to also transmit substantive responses to the other outstanding communications, since she considers response to her communications as an important part of the cooperation of Governments with her mandate

2036. The Special Rapporteur hopes that the Government of Pakistan will respond favourably to her request of November 2008 to visit the country in order to strengthen the dialogue with the authorities.

## **Papua New Guinea**

### **Urgent appeal**

2037. On 27 May 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal on the situation of Mr **Simon Eroro**, journalist with the Post Courier national daily. Mr Eroro is the laureate of the 2007 Best News Story of the Year award delivered during the Papua New Guinea Best Medias awards. According to the information received:

2038. Mr Simon Eroro recently received four threatening phone calls from unidentified people following his reporting on a bribery scandal allegedly involving several Papua New Guinean Government officials. In 2006, some US\$30 million were reportedly offered to Papua New Guinean officials to convince them to recognize Taiwan as an independent State. Because of these threats, Mr Simon Eroro has been forced to go into hiding.

2039. Concern was expressed that the threats against Mr Simon Eroro may be related to his non-violent activities in defense of human rights, in particular in the exercise of his right to freedom of opinion and expression.

### **Urgent appeal**

2040. On 19 August 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, sent an urgent appeal on the situation of Mr **Jethro Tulin**, an indigenous Ipili and human rights defender from Enga Province in Papua New Guinea. Mr Tulin is also the Chief Executive of Akale Tange, a non-governmental organisation based at Porgera that has been documenting alleged human rights abuses associated with Barrick's Porgera Joint Venture Gold mine. Alleged extrajudicial killings at Porgera Joint Venture Gold mine were the subject of an allegation letter sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions on 18 January 2008. According to information received:

2041. On 4 August 2008, Mr Jethro Tulin was attacked by three men wielding machetes. The attack took place in Mamale village, Laiagam, about 2 ½ hours by road from Barrick Gold's Porgera Joint Venture Mine. During the attack, one of the assailants reportedly threatened Mr Tulin that he would not be permitted to return to Canada. Mr Tulin suffered a broken arm in the attack and is reportedly seeking medical attention for his injuries.

2042. Prior to the attack, Mr Tulin, along with Mr Anga Atalu and Mr Mark Ekepa of the Porgera Landowners Association, had visited Canada in an attempt to raise awareness of alleged human rights violations, including killings, reportedly being perpetrated by the Barrick mine's security forces on the indigenous population living near the mine site. During the visit in May, Mr Tulin delivered a statement at the Barrick's Gold Annual General Meeting in Toronto about the alleged killings by Barrick's security forces. Since



his return to Papua New Guinea, Mr Tulin has received anonymous threats warning him that he should watch out for his own safety.

2043. On 17 July 2008, Mr Tulin, along with members of the Porgera Landowners Association, were called to a meeting with the Community Affairs Officer of Barrick's mine, reportedly in an intimidating atmosphere, who stated that various organizations that have provided Mr Tulin and his colleagues with support including Minewatch Canada, Conservation International and the United Nations are tainting Barrick's image abroad.

2044. Mr Tulin has reportedly been forced to move to a secret location and his movements have been severely restricted.

2045. Concern was expressed that the acts of intimidation and harassment against Mr Tulin may be linked to his non-violent activities in defense of human rights, i.e. his denouncing of the human rights situation of the indigenous population living in the vicinity of the Barrick's Porgera Joint Venture Gold mine.

### **Observations**

2046. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications of 27 May 2008 and 19 August 2008. She considers response to her communications an important part of the cooperation of Governments with her mandate. She urges the Government to respond to the concerns raised by her, and provide detailed information regarding investigations undertaken as well as protective measures taken.

## **Peru**

### **Llamamiento urgente**

2047. El 10 de enero de 2008, la Representante Especial, junto con el Relator Especial sobre la independencia de magistrados y abogados, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el hostigamiento de los familiares de las víctimas de las masacres de Barrios Altos y La Cantuta, de la Sra. **Gloria Cano**, abogada y representante de las mismas, y de la Sra. **Jo Marie Burt**, representante del Washington Office for Latin America (WOLA). WOLA es una organización que promueve los derechos humanos, la democracia y la justicia en el ámbito social y económico en Latinoamérica y el Caribe. La Sra. Cano fue el objeto de un llamamiento urgente enviado por el Relator Especial sobre la independencia de magistrados y abogados, el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y la Representante Especial del Secretario-General para los defensores de los derechos humanos el 22 de noviembre de 2004 y de un llamamiento urgente enviado por el Relator Especial sobre la independencia de magistrados y abogados y la Representante Especial del Secretario-General para los defensores de los derechos humanos el 28 de febrero de 2005.

2048. Según la información recibida, entre el 10 y el 17 de diciembre del 2007, familiares y abogados de las víctimas de varias masacres perpetradas durante la presidencia de Alberto Fujimori, habrían sufrido agresiones verbales y físicas durante el juicio del ex Presidente Fujimori por, entre otras, las masacres de Barrios Altos y La Cantuta. El día 10 de diciembre, un grupo de individuos habría agredido a los abogados y familiares de las víctimas a unos 50 metros de la Dirección de Operaciones Especiales (Diroes), lugar donde transcurre el juicio.

2049. El 14 de diciembre, las Sras. Gloria Cano y Jo Marie Burt habrían sido verbalmente agredidas y amenazadas por simpatizantes de Fujimori. Gloria Cano habría sido nuevamente agredida verbalmente el día 17 de diciembre y los familiares de las víctimas habrían sido insultados. Según se informó, incidentes de agresiones y amenazas se producirían de manera continua durante el juicio. El día 18 de diciembre, los miembros de las oficinas de la Asociación Pro Derechos Humanos habrían recibido una llamada telefónica amenazándoles por ser terroristas y amenazando de muerte a la Sra. Gloria Cano.

2050. Se temía que el hostigamiento de estas personas y la amenaza de muerte en contra de Gloria Cano, puedan estar relacionados con sus actividades en defensa de los derechos humanos y en particular con su trabajo en apoyo a las familias de las víctimas de las masacres perpetradas durante la presidencia de Alberto Fujimori. Además se expresó profunda preocupación por la seguridad de las personas mencionadas.

### **Respuesta del Gobierno**

2051. Mediante dos cartas fechadas 10 de abril de 2008 y 12 de mayo de 2008, el Gobierno respondió al llamamiento urgente. Las cartas comunicaron que las autoridades peruanas no recibieron ningún reporte por parte de la PNP ni de las instalaciones de la DIROES, asimismo el personal de seguridad del Poder Judicial no haber registrado ningún acto de violencia. En virtud de las alegadas amenazas recibidas por la Asociación Pro Derechos Humanos (APRODEH), la Policía se dispuso que a partir del 19 de diciembre de 2008, los Patrulleros de la Comisaría de Jesús María y los Jefes del Departamento de Patrullaje Motorizado efectúen ronda móvil y estacionamiento táctico a través de los vehículos motorizados, con la finalidad de prevenir cualquier acción violenta contra el local y personal de la APRODEH. Asimismo, las cartas señalaron que no se ha conocido de nuevos actos de la Sra. Gloria Cano Legua. El estado peruano considera que se han implementado las medidas de seguridad suficientes, a fin de garantizar el adecuado desarrollo del juicio oral al ex presidente Alberto Fujimori sin perturbaciones para ninguna de las personas presentes en las Salas de Audiencia.

### **Carta de alegaciones**

2052. El 24 de enero de 2008, la Representante Especial envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el encarcelamiento del Sr. **Neptalí Quispe Sánchez**, abogado conocido por defender a

comunidades campesinas y líderes ambientales, en el penal de máxima seguridad de Huacariz en Cajamarca.

2053. De acuerdo con la información recibida, el 14 de diciembre de 2007, el Sr. Neptalí Quispe Sánchez, procesado por delitos de falsedad genérica y fraude procesal, habría sido encarcelado en la prisión de máxima seguridad de Huacariz, tras haber sido declarado culpable por el Juez de Baños del Inca, Juan Luis Alegría Hidalgo, y condenado a treinta meses de pena privativa de libertad con carácter de efectiva, inhabilitación por treinta meses y el pago de 5.000 nuevos soles como reparación civil.

2054. Esta sentencia habría sido fundada sobre hechos ocurridos en el mes de abril de 2006, cuando el Sr. Neptalí Quispe Sánchez trabajaba como Asistente de Función Fiscal de la Fiscalía de Baños del Inca. El 3 de abril de 2006, al recibir un expediente procedente de la Fiscalía Superior De Cajamarca, que trataba de la investigación seguida contra Luis José Mercado Mujica en agravio a la empresa Minera Yanacocha, el Sr. Neptalí Quispe Sánchez habría cometido el error de no actualizar la fecha del sello, poniendo el “viernes 31 de marzo” en lugar de la verdadera fecha de recepción, el “lunes 03 de abril”. Posteriormente, la empresa minera habría notado este error y lo habría denunciado ante el Ministerio Público. La Fiscalía habría iniciado un proceso administrativo mediante Control Interno, que habría llegado a la conclusión que el Sr. Neptalí Quispe Sánchez habría cometido una falta grave y que habría pronunciado su despido en consecuencia. Además, el Control Interno habría ordenado abrir una investigación penal por los mismos hechos, a pesar de que la Ley prohíba sancionar más de una vez una persona por los mismos hechos.

2055. Sin embargo, el 25 de agosto de 2006, el Juez de Baños del Inca Luis Alegría Hidalgo habría iniciado oficialmente un proceso contra el Sr. Neptalí Quispe Sánchez por los delitos ya mencionados. El Sr. Neptalí Quispe Sánchez habría sido acusado de haber introducido intencionalmente fecha y hora diferentes de los reales, con lo cual consideran que “ha defraudado la correcta administración de justicia [...] ha defraudado a la sociedad y ha lesionado la imagen y credibilidad del Ministerio Público, además del daño concreto que se causa a los participantes de la investigación (Minera Yanacocha)”.

2056. Se temía que la severidad con la que se ha juzgado al Sr. Neptalí Quispe Sánchez, quien habría cometido un delito menor, así como las penas excesivas a las que habría sido condenado, estuviesen relacionadas con su trabajo de abogado de defensa de cuestiones sociales y ambientales con su actividad de abogado en causas sobre las cuestiones ambientales y campesinas.

### **Llamamiento urgente**

2057. El 3 de octubre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos, el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, y la Presidenta-Relatora del Grupo de Trabajo sobre Detenciones Arbitrarias enviaron un llamamiento urgente, señalando al Gobierno la información recibida en relación con los Sres. **Humberto Paredes Vargas**,

Coordinador Regional de la Selva Central del Bloque Amazónico, **Francisco Solano Cantoral Huamani**, Secretario del Frente de Defensa de Chanchamayo y **Fredy Palomino Ñahuero**, Presidente del Frente Cívico de Defensa y Desarrollo de los Agricultores y Comunidades Nativas de Pichanaki.

2058. De acuerdo con las informaciones recibidas, el 17 de marzo de 2008, los Sres. Humberto Paredes Vargas, Francisco Solano Cantoral Huamani y Fredy Palomino Ñahuero se habrían dirigido a Oroya para firmar un Acta de Compromiso con las autoridades policiales. El 28 de agosto de 2008, el Juez del Primer Juzgado Penal de la Provincia de Chanchamayo habría ordenado la captura inmediata de los Sres. Humberto Paredes Vargas, Francisco Solano Cantoral Huamani y Fredy Palomino Ñahuero bajo acusaciones de “atentar contra el patrimonio, la seguridad y la tranquilidad pública”. Las acusaciones se basarían en un enfrentamiento violento en Pichanaki entre los miembros de la comunidad y la policía. Sin embargo, dicho enfrentamiento habría pasado el 17 de marzo de 2008, cuando los Sres. Humberto Paredes Vargas, Francisco Solano Cantoral Huamani y Fredy Palomino Ñahuero habrían estado en Oroya. El 22 de septiembre de 2008, el Sr. Fredy Palomino Ñahuero habría sido detenido.

2059. Se expresó preocupación que las acusaciones contra los Sres. Humberto Paredes Vargas, Francisco Solano Cantoral Huamani y Fredy Palomino Ñahuero, y la detención del Sr. Fredy Palomino Ñahuero, podrían estar vinculados con sus actividades en la defensa de los derechos de los pueblos indígenas en Perú. También se expresó preocupación por la integridad física y psicológica de dichos defensores de los derechos de los pueblos indígenas.

### **Observaciones**

2060. La Representante Especial agradece al Gobierno su respuesta a su comunicación de 10 de enero de 2008. Sin embargo solicita información sobre las comunicaciones que aún no han sido respondidas.

## **Philippines**

### **Urgent appeal**

2061. On 21 February 2008, the then Special Representative, together with the Special Rapporteur on the question of torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on violence against women, sent an urgent appeal to the Government concerning Ms **Sherlyn Cadapan**, Ms **Karen Empeño** and Mr **Manuel Merino**. Ms Sherlyn Cadapan is a community organiser with the youth group Anakbayan and works in a voluntary capacity for Alyansa ng Magbubukid sa Bulacan (Alliance of Peasants in Bulacan – AMB), an organization dedicated to the promotion and protection of peasant rights based in Central Luzon. Ms Karen Empeño is a member of the League of Filipino Students (LFS) and Mr Manuel Merino was a local peasant and a member of the Alyansa ng Magbubukid sa Bulacan. All three individuals were the subject of an urgent appeal sent by the Special Representative of the Secretary-

General on the situation of human rights defenders on 5 October 2007, following their kidnapping on 26 June 2006.

2062. According to new allegations received, Ms Sherlyn Cadapan and Ms Karen Empeño were, at time of writing, currently in detention at the Camp Tecson barracks in San Miguel, Bulacan. Ms Cadapan, in addition to being forced to do the laundry for the camp every day, was sexually assaulted by soldiers named Mickey, Billy, and Donald. Donald, a.k.a. Master Sgt. Donald Caigas, is a suspect in the killing of human rights defender and community leader, Eddie Gumanoy, in April 2003, and is believed to be identifiable by the tattoo "24th IB" on his shoulder.

2063. Previously Mr Manuel Merino, Ms Sherlyn Cadapan and Ms Karen Empeño had been held at the 24th Infantry Battalion (IB) camp in Limay, Bataan, where Ms Sherlyn Cadapan was tied to a bench while her feet were raised and soldiers poured water over her and electrocuted her. When Ms Sherlyn Cadapan admitted that Ms Karen Empeño had helped her to write a letter to her mother-in-law, the latter was taken outside by soldiers and witnesses report hearing her cries. The following day, the witnesses heard the soldiers recount that they had raped her with wooden sticks.

2064. Ms Sherlyn Cadapan and Ms Karen Empeño were not seen again after June 2007. On 21 November 2007, Ms Sherlyn Cadapan's mother-in-law, Ms Adoracion Paulino, testified to receiving death threats from soldiers visiting her home and interrogating her. Mr Manuel Merino was killed, reportedly following the order issued by Retired Major General Jovito that Mr. Merino be burned to death.

2065. In view of the above allegations, grave concern was expressed for the physical and psychological integrity of Ms Sherlyn Cadapan and Ms Karen Empeño. Furthermore, concern was expressed that the kidnapping and detention of Ms Sherlyn Cadapan, Ms Karen Empeño, and Mr Manuel Merino may have been directly related to their activities in defense of human rights.

### **Response from the Government**

2066. In a letter dated 26 February 2008, the Government responded that the communication had been forwarded to the appropriate authorities in Manila. The Government further stated that an initial reply to the cases was sent by the Permanent Mission of the Philippines on 8 November 2007, informing that that the letter had been forwarded to the appropriate authorities in Manila. The letter further stated that information regarding to the case would be made available to the Special Representative once received by the Permanent Mission.

### **Urgent appeal**

2067. On 14 March 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government concerning Misses **Mary Ann B.**

**Abiero, Marilyn Millares, Ria R. Amuyan, Jocelyn M. Lagman, Angelita Adriano** and Messrs **Jason I. Magtanong, Crisostomo San Juan, Roberto Baguio, Diomcio Sechico, Michael Amposta, JR Buensoceso, Alexanders Ligutan, Alan Pomido** and **Christopher Gandiga**. The aforementioned are all members of the Kilusan para sa Pambansang Demokrasya (KPD), a non-governmental organization promoting democracy and the rule of law in the Philippines.

2068. According to information received, on 29 February 2008, members of the KPD were travelling in two vehicles to a peaceful demonstration organised by the KPD in Lubao, Pampanga, when they were stopped at Pasbul by agents of the Philippine National Police (PNP). The officers inquired as to the destination of the KPD members, who replied that they were going to Ramon Lingad Hospital in San Fernando to donate blood. The police officers then proceeded to escort them in that direction. When one of the KPD cars drove away the police ordered the other car to pull over and a van of armed and masked SWAT policemen arrived. The SWAT team searched the vehicles and interrogated the KPD members at gunpoint before taking them to the Pampanga Provincial PNP camp in San Fernando, where each of the KPD members was interrogated individually.

2069. At 3.30pm that day, KPD leaders from Central Luzon came to inquire as to the legal basis for the detention. They were informed that the police were not satisfied with the photocopied documents of the driver of the vehicle and that the original copy was required. The detention of the KPD members was denied and they were released at approximately 4.00pm, without the driver's original documents having been produced. On their release, the KPD members went to join an inter-faith rally in San Fernando. The same police officers were present and warned the KPD members that they would be detained again if they did not leave immediately.

2070. Concern was expressed that the intimidation and detention of the aforementioned persons may be directly related to their activities in defense of human rights, particularly the activities of the KPD in the promotion of democracy in the Philippines. Further concern was expressed about potential future attempts to intimidate the above-mentioned persons.

### **Letter of allegations**

2071. On 23 April 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning the alleged **termination of contract of three workers**, including a union leader, and the **suspension of 36** others, for holding a protest demanding the distribution of overdue benefits.

2072. It is reported that in December 2005, the Nagkahiusang Mamumuo sa Davao City Water District (NAMADACWAD) union and the Davao City Water district (DCWD), a government owned and controlled corporation, came up with a Collective Negotiation Agreement (CNA), which became final and executory on 26 May 2006; the agreement

provided that Php 99 millions (approximately USD 2.3 millions) savings of the firm would be given as financial incentives to all the workers. On 16 May 2007, while the benefits had not yet been distributed, union leaders and workers held a picket in front of the DCWD offices.

2073. Pickets resumed in November 2007, during which, some protestors were wearing t-shirts calling for the release of the benefits and the resignation of the board's vice-chairperson, who supposedly opposes the implementation of the CNA. On 13 December 2007, the union sent a letter to the DCWD requesting that talks be resumed for the implementation of the CNA, to which no response was allegedly received. Further reports indicate that DCWD management threatened contract-based employees not to renew their contracts in 2008 if they remained members of the union, reportedly leading to the non-renewal of nine contracts and the resignation of 80 workers from the union.

2074. According to information received, on 19 March 2008, the general manager of DCWD issued a Memorandum informing of the dismissal of Rodrigo Aranjuez, president of the NAMADACWAD, Gregorio Cagola and Celestino Bondoc, as well as the suspension of 36 other workers for a period of two months, for committing "administrative offenses", such as wearing t-shirts containing messages demanding the provision of benefits and the resignation of one member of the board of the DCWD.

2075. Concern was expressed that the dismissal of Mr Aranjuez, Mr Cagola and Mr Bondoc as well as the suspension of the 36 workers may be a form of retaliation linked to their non-violent activities in defense of human rights, in particular their work to promote workers' rights in the Philippines. Further concern was expressed that these measures may form part of a pattern of harassment against trade unionists in the Philippines.

### **Letter of allegations**

2076. On 28 April 2008, the then Special Representative sent a letter of allegation to the Government concerning the killing of Mr **Gerardo Cristóbal**, a labour activist and union leader in Cavite, south of Manila.

2077. According to information received, on the morning of 10 March 2008, Mr Cristóbal was driving from his home in Barangay, Malagasang to Imus, Cavite, when armed men travelling in another vehicle pursued him and opened fire. Following the killing, the Scene of the Crime Operatives (SOCO), the authority responsible for conducting an onsite investigation, instead of conducting an investigation at the crime scene, allegedly asked a local funeral home in Dasmariñas to retrieve Mr Cristóbal's body, which was reportedly later transferred to another funeral home. On 28 April 2006, Mr Cristóbal had reportedly been seriously injured after a violent incident involving two other men, alleged to be Senior Police Office 1, Romeo Lara, of the police intelligence unit in Imus, Cavite and Larry Reyes, of the Civil Security Unit (CSU) of the same district.

2078. Serious concern was expressed that the killing of Mr Gerardo Cristóbal may have been directly related to his activities in defense of human rights, particularly in defense of labour and trade union rights in Cavite.

### **Response from the Government**

2079. In a letter dated 25 June 2008, the Government responded to the above letter of allegation. The response communicated that investigations conducted by the Cavite Police Provincial Office revealed that the incident took place on 1 March 2008 at approximately 8 a.m. on the national Highway, Imus, Cavite. Five unidentified men on board another vehicle shot Mr. Gerardo Cristobal to death inside his car. The suspects immediately fled after the incident. Initial investigations revealed that the victim was killed due to a traffic altercation. Investigation on the case is ongoing, to establish the identities of the perpetrators and the possible motive of the killing.

2080. With regard to the incident that transpired on 28 April 2006, the investigation found that Senior Police Officer 1 (SPO1) and Police Office 3 (PO3) were on board their vehicle when they were fired upon by three unidentified men on board another vehicle. PO3 retaliated, hitting one of the suspects, later identified as Gerardo Cristobal. The other two managed to escape. SPO1 sustained gunshot wounds and was brought to a nearby hospital for treatment. At the same time Mr. Cristobal was brought to the same hospital for treatment and was placed under arrest.

2081. Criminal complaints for Frustrated Murder and Attempted Murder were filed against Mr. Cristobal and the other two suspects at the Provincial Prosecutor's Office in Imus, Cavite under IS No. 11-060174. Upon determination that a probable cause exists, the complaints were elevated before the Regional Trial Court (RTC) under CC No. 2488-06 and 2489-06. In a related matter Mr. Cristobal was also named as one of the suspects in the killing of a supposed active leader of a labour union, in General Trias, Cavite on 17 February 2007. A case of murder was filed against Mr. Cristobal on 8 October 2007 at the Cavite Provincial Prosecutor's Office docketed under IS No. TM-07-4832. He was also named as a suspect in the killings of Crisanto Abad in 2004 and Butch Servida in 2007. It was further disclosed that Mr. Cristobal has a case record for Violation of PD 1866 (Illegal Possession of Firearms) docketed under CC No. 24019-05.

2082. No complaint has been lodged on behalf of Mr. Gerardo Cristobal and no penal, disciplinary or administrative sanctions have been imposed because the identities of the suspects have not yet been established.

### **Letter of allegations**

2083. On 30 April 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent a letter of allegation to the Government concerning the reported **violent dispersal of a demonstration** held on 6 March 2008 in Manila.



2084. According to information received, on 6 March 2008 at about 3 p.m., approximately 500 protestors from the region of Southern Tagalog, arrived in front of the Department of Labour and Employment (DOLE) in Intramuros in Manila, after a four-day march. The march was organized by a group of labour organisations, the Pagkakaisa ng Manggagawa sa Timog Katagalugan-Kilusang Mayo Uno (PAMANTIK-KMU), the Anakpawis (Toiling Masses) and the Bagong Alyansang Makabayan (BAYAN-Southern Tagalog), in order to protest against delays by the DOLE in addressing pending labour cases. The Labour Secretary refused to meet with representatives of the protestors, so they decided to stay in front of the building and voice their grievances. At around 7 p.m., two fire trucks from the Manila Fire Station were positioned close to the protestors, while forces from the Manila Police District (MPD) were stationed in front of the DOLE building. The protestors requested Colonel Viray from the MPD and Chief Superintendent Rogelio Rosales, district director of the MPD Station 5, to be allowed to stay until the next day. At 8:45 p.m., Chief Superintendent Rogelio Rosales ordered his policemen to disperse the protest.

2085. Subsequently the police used water cannons, truncheons, clubs, and bladed weapons against the protestors injuring 37 people (please refer to list below). Six persons - Marlon V. Torres, Nestor A. Villanueva, Philip S. Nardo, Jason A. Hega, Emmanuel J. Dioneda and Jay D. Aban, were arrested by the police, taken to the Manila Hospital and then to the Manila Police District at the United Nations Avenue. On 7 March they were transferred to the Regional Trial Court in Manila, where they were charged with "tumults and other disturbance of public order" and "direct assaults to persons in authority" under Batas Pambansa (BP 880) or the Public Assembly Act of 1985 and the Revised Penal Code. They were then released "for further investigation" by the prosecutor.

2086. The names of the alleged victims are:

1. **Marlon V. Torres**, 35, Public Information Officer for PAMANTIK-KMU, a resident of Jude St, Cabuyao, Laguna. He suffered injuries to his head, a fractured bone on his right arm as mentioned in the Medical Certificate from the Opital ng Maynila.
2. **Nestor A. Villanueva**, 50, a member of Samahang ng Magsasaka sa Buntog (SAMANA- PUMALAG). His left little finger was fractured and he sustained injuries to his head.
3. **Jason A. Hega**, 26, a member of KASAMA-TK-KMP and a political party Anakpawis. He sustained bruises on various parts of his body, cuts and abrasions to his upper buttock.
4. **Philip S. Nardo**, 23, a member of a political party Anakbayan (Youth of the Nation) in Cavite, a resident of Barangay (village) Fatima, Santos, Dasmaringas, Cavite. His head and left leg were injured.
5. **Emmanuel J. Dioneda**, 43, director for the Labor Education Advocacy Development and Services and Research Institute (LEADER), a resident of No. 992 P Vallejo, Sta Rosa, Laguna. He suffered injuries.
6. Jay D Aban, 28, a resident of No. 1039 Guevarra Street, Sta. Cruz Manila.

7. **Leo Fuentes**, 20, a student of the University of the Philippines Los Banos (UPLB) and chairperson of the University Student Council (USC). He suffered contusion and his right arm swelled.
8. **Joseph Doinarsi**, 27, a member of ANAKPUSO, a resident of San Pedro, Laguna. He suffered injuries to his right eye.
9. **Rolando Gonzales**, 36, a member of ANAKPUSO, a resident of San Pedro, Laguna. He was hit on his forehead and his back bears marks.
10. **Joe Francisco**, 26, a member of ANAKPUSO, a resident of San Pedro, Laguna. His right arm swelled following the beatings
11. **Luis Arikaya**, 41, a member of Kalipunan ng Damayang Mahihirap (Kadamay), a resident of Sta. Rosa, Laguna. He suffered injuries on his left shoulder.
12. **Jhun Torres**, 19, a member of Kadamay, a resident of Sta. Rosa, Laguna. He suffered cuts, his left hand swelled due to beatings and his right knee wounded after he fell.
13. **Tirso Bautista**, 35, a member of Kadamay, a resident of Sta. Rosa, Laguna. His left belly swelled and bears marks.
14. **Jay Fabella**, 41, a staff member of Cabuyao Workers Alliance (Cawal). He suffered contusion to his right belly, arm and leg due to beatings. He was also hit on the head.
15. **Lucesio Baril**, 46, a worker for Toyota Motor Philippines, a member of the Toyota Motor Philippines Corporation Workers Association (TMPCWA), Kadamay National Office. He was hit on his right breast, left portion of his mouth, right shoulder and the forehead. His left little finger was cut off by a bladed weapon.
16. **Virgilio C. Clandog**, 33, a worker for Toyota Motor Philippines and a member of the TMPCWA. He was hit on the left portion of his head. He was beaten on the head, had a fractured finger on his left hand and injuries to his knee.
17. **Neil Nacario**, 28, a worker for Hanjin Garments, a member of Aniban ng Manggagawang Inaapi sa Hanjin (AMIHAN), a member of Cawal. He suffered abrasions to his right elbow and left hand.
18. **Rommel Mariano**, 40, a worker for Toyota Motors Philippines; a member of the TMPCWA. His left hand swelled; he was beaten on the back and head.
19. **Federico Torres**, 33, a worker for Toyota Motor Philippines; a member of the board of the TMPCWA-PAMANTIK; he suffered injuries to his left palm and pelvis; his right knee and fingers also had cuts.
20. **Francisco Jose**, 26, a member of the Pamprobinsyang Ugnayan ng mga Magsasaka sa Laguna (PUMALAG). He was hit on his right hand and his elbow swelled.
21. **Rolando Gonzales**, 36, a member of the Pumalag. He was hit on his left hand, and the left portion of his back had abrasions.
22. **Ronald Balcunit**, 19, a member of the Solidarity of Cavite Workers (SCW). He suffered injuries to his left leg and right fingers. He has difficulties hearing on his right ear following being hit by high pressure water cannons. His lips were cut.
23. **Reden Busadre**, 33, a member of the National Coalition for the Protection of Workers Rights Southern Tagalog (NCPWR-ST). He was hit on the back, suffered abrasions to his right fingers.
24. **Mark Anthony Baculo**, 22, a member of the Southern Tagalog Cultural Network (STCN), a resident of No. 409 Jude Street, Barangay Sala, Cabuyao, Laguna. He suffered injuries to his left hand and the left portion of his back had contusion and abrasions.

25. **Noel Sanchez**, 41, a chief steward of the Union of Filipino Employees Drug Food Alliance-Kilusang Mayo Uno (UFE-DFA-KMU); coordinator for the Cawal. He was hit on the left portion of his belly due to police beating following which he suffered from stomach pain and swelling and had to vomit.
26. **Noel Alemania**, 43, acting president of the UFE-DFA-KMU; deputy secretary general of the PAMANTIK- KMU. He suffered contusions on the right portion of his back, his left leg swelled due to police beatings and his stomach was hit by truncheons.
27. **E. D. Cubelo**, 36, a worker at the Toyota Motor Philippines, president of the TMPCWA. He suffered contusions to his back.
28. **Wenacito Urgel**, 35, a worker of the Toyota Motor Philippines, vice president of the TMPCWA. He suffered contusion to his left arm, cuts to his right elbow, abrasion to his left leg, abrasion and cuts to his left belly.
29. **Roderick Vidal**, 25, a worker for the Toyota Motor Philippines; a member of the TMPCWA; he suffered a broken index finger
30. **Rowell Delgado**, 24, a worker for Toyota Motor Philippines, a member of the TMPCWA. He suffered abrasions to his body.
31. **Rolando Mingo**, 52, chairman of the Southern Tagalog Region Transport Sector Organization (STARTER) and Vice- Chairman ng Pinag-isang Lakas ng Transport Organization (PISTON). He sustained bruises on his head and his right leg and abrasions to his right wrist.
32. **Romeo Legaspi**, 46, chairman of the Pamantik, chairman of a political party Anakpawis in Southern Tagalog, president of the Organized Labor Association in Line Industries and Agriculture (OLALIA-KMU), president of the Lakas ng Manggagawa Nagkakaisa ng Honda Cars Phils (LMNH-OLALIA-KMU). He suffered bruises on his left forehead and his left breast.
33. **J.M. Pamulaklak**, 24, a resident of Los Banos, Laguna.
34. **Edgardo Laresma**, 28, a member of the ROTOR- STARTER
35. **Jerold Rosales**, 26, a staff of the LEADER
36. **Riza Janet Barrientos**, 44, member of the Gabriela Women's Party (GWP-ST). She sustained bruises and swelling of her left arm.

2087. Concern was expressed that the arrest and detention of the aforementioned persons and the use of force against reportedly peaceful protestors may be linked to their activities in defense of human rights, in particular labour rights. Further concern was expressed that these events may form part of a pattern of harassment against human rights defenders advocating for the respect of labour rights.

### **Urgent appeal**

2088. On 7 May 2008, the Special Rapporteur sent an urgent appeal to the Government concerning Mr **Dante F Senillo**. Mr Senillo has been a regional staff member of the National Federation of Labour Union-Kilusang Mayo Uno-Eastern Visayas Chapter (NAFLU-KMU-EV) since April 2006. His work includes the coordination of the different unions under the NAFLU and the follow-up of the cases and issues facing the unions such as low wages and unfair dismissal.

2089. According to information received, on 16 December 2007, elements of the 19th Infantry Battalion (IB) reportedly attempted to enter a house in Ormoc City where Mr Senillo was staying, but he avoided being apprehended. The following day, Mr Senillo was reportedly informed that the 19th IB were looking for him and had offered a reward of P100,000 (USD 2,500) for information regarding his whereabouts. It is not known why the 19th Infantry Battalion is allegedly searching for Mr Senillo.

2090. On the afternoon of 4 April 2008, two police officers visited Mr Senillo's house. The officers informed Mr Senillo that they had received a letter regarding his situation and asked him some questions such as whether he was still being harassed by the 19th Infantry Battalion (IB) and if he had witnesses to the alleged violations.

2091. Reports indicated that Mr Senillo has been receiving threats from the military since April 2004 and he is believed to be under continuing surveillance. On 9 April 2008, he was reportedly followed by a man while on his way to a meeting of the NAFLU-KMU-EV at the premises of a company. The individual, who was allegedly a member of the Philippines Army, reportedly approached him and asking what was his business at the company.

2092. Concern was expressed that the harassment and intimidation of Mr Senillo may be directly related to his activities in defense of human rights, particularly labour rights, in his capacity as a member of the trade-union movement in the Philippines. In view of the reports received, serious concern was expressed for Mr Senillo's physical and psychological integrity. Further concern was finally expressed that these events may form part of a pattern of harassment against human rights defenders advocating for the respect of labour rights.

### **Letter of allegations**

2093. On 23 May 2008, the Special Rapporteur sent a letter of allegation to the Government concerning the killing of Mr **Celso Pojas**. The deceased was Secretary-General of the Farmers Association in Davao City (FADC), an advocate for the land rights of farmers and indigenous communities in the Philippines and an opponent of moves to militarize rural areas.

2094. According to information received, on 15 May 2008, at approximately 5.45 a.m., Mr Celso Pojas was shot dead by five unidentified men outside the FADC offices in Davao, Southern Mindanao. Mr Pojas was to visit an indigenous farming community in the Compostela Valley which had been forcibly displaced by the military later that day, together with FADC colleagues and representatives of the Peasants Movement in the Philippines (Kilusang Magbubukid ng Pilipinas - KMP).

2095. In February and March 2008, Mr Celso Pojas had publicly opposed military operations which had allegedly led to human rights violations being committed against local farmers and indigenous communities. He had also met with the family of a tribal leader who had campaigned for the land rights of indigenous peoples in Tugbok, Davao

City, who was murdered on 30 April 2008. Reports from witnesses indicate that Mr Celso Pojas had been under surveillance since December 2007 and had received death threats since March 2008.

2096. Concern was expressed that the killing of Mr Celso Pojas may have been directly related to his activities in defense of human rights, in particular the rights of agricultural and indigenous communities. In view of his killing, and of the reports of killings and alleged forced disappearances of other human rights defenders addressed in communications by mandate-holders in recent months, serious concern was reiterated for the physical and psychological integrity of human rights defenders in the Philippines.

### **Response from the Government**

2097. In a letter dated 21 July 2008, the Government responded to the above communication. The letter stated that, according to information provided by the Philippine National Police (PNP), Mr Celso Pojas was killed by two unidentified gunmen on 15 May 2008, at 6.00 a.m. in Barangay (Village) Ma-a, Davao City. Mr Pojas sustained three gunshots and was pronounced dead by the responding medics. The Scene of the Crime Operations (SOCO) Team recovered two empty shells of a .45 caliber pistol which were subjected to laboratory examination. Task Force Pojas was created by Police Regional Office 11 to conduct thorough investigations, secure witnesses, establish motives, identify the perpetrators and press criminal charges against the suspects under the close supervision of Task Force Usig. Investigations conducted by the police showed that a witness heard three successive gunshots and later found that Mr Pojas was the victim. Another witness said he heard three gunshots and saw a motorcycle speeding away with two persons on board. The witness did not recognize either of them. A third witness said that he saw the victim running across the road shouting for help before falling to the ground, and that the assailants then boarded a motorcycle which proceeded to Ma-a Diversion Road. A Medico-legal Report and a Firearms Identification Report issued by PNP Crime Laboratory Office 11 showed that the victim was shot twice in the chest with a .45 caliber pistol. An FAS Identification Report stated that two empty shells recovered from the crime were fired from a single firearm. A witness, who claimed that he was approximately two meters from the assailant when Mr Pojas was shot, corroborated this evidence. The witness could not describe the physical appearance of the suspect. Police investigators repeatedly requested interviews with the family of Mr Pojas but their requests were rejected. Nevertheless, investigations are continuing in order to establish the identity of the suspects. Authorities are gathering relevant information and scrutinizing all possible angles of the case. Allegations that the military is behind Mr Pojas' killing remain uncorroborated.

2098. In a letter dated 7 October 2008, the Government further informed that a complaint was lodged on behalf of Mr Celso Pojas. The Commission on Human Rights of the Philippines conducted its own *motu proprio* investigation on the case on 22 May 2008 through its regional office in Davao City. The findings and recommendation of the Commission in its report stated that the killing of Mr Poljas is a human rights violation, particularly arbitrary deprivation of life. Financial assistance was recommended to be

extended to the family of Mr Poljas in accordance with CHR Resolution A2004-006. Since no witness appeared to testify and due to insufficient evidence to support the filing of a case in court, the Commission recommended that the case be provisionally dismissed without prejudice. Concerning the allegation that the military is behind the killing, the Armed Forces of the Philippines informed that the Philippine Army conducted its own investigation on the case and concluded that there were no definitive proof of the military's involvement in the killing.

### **Urgent appeal**

2099. On 20 June 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government concerning Mr **Kelly Muñoz Delgado**, Secretary General of the KARAPATAN Alliance for the Advancement of People's Rights in the Southern Mindanao Region of the Philippines. Mr Muñoz Delgado's works includes response to reports of human rights violations, in particular those allegedly perpetrated by the Armed Forces of the Philippines (AFP) against indigenous peoples and farmers.

2100. According to information received, at approximately 10 a.m. on 16 May 2008, death threats, in the form of three text messages to Charm Radio, were made against Mr Kelly Muñoz Delgado following an interview he had given at the station regarding the assassination of human rights defender Mr Celso Pojas (addressed in letter of allegation PHL 7/2008, sent by the Special Rapporteur on the situation of human rights defenders on 23 May 2008). One of the messages contained the threat "Ikaw nmn ang sunod jn mr. Kelly n iligpid. Siz fet below d ground kn Kelly (You are the next one to be eliminated, Mr Kelly. You're already six feet below the ground)". Charm Radio forwarded the messages to Mr Kelly Muñoz Delgado without disclosing the number of the phone from which the threats had been sent in accordance with the station's policy on preservation of listener confidentiality.

2101. Reports also indicated that Mr Kelly Muñoz Delgado had been under surveillance by unidentified armed men since the interview and that armed motorcyclists had been observed in front of the KARAPATAN offices in F Torres Street, Davao City.

2102. Concern was expressed that the threats made against Mr Kelly Muñoz Delgado may be directly related to his work in defense of human rights and his publicizing of the killing of Mr Celso Pojas. Following Mr Pojas' death, serious concern was expressed for the physical and psychological integrity of Mr Muñoz Delgado.

### **Urgent appeal**

2103. On 9 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government regarding Mr **Raul S Quiboyen**, Mr **Brendo D Morales** and Mr **Joey S Ling** of the Commission on Human Rights of the Philippines

(CHRP). The CHRP investigates and reports on human rights violations in the Philippines before making recommendations to the Filipino government.

2104. According to information received, on 20 June 2008, Mr Quiboyenm, Mr Morales and Mr Ling were shot at when returning by boat from the island of Limaong after exhuming and carrying out an autopsy on the body of Madal Barorong, allegedly a victim of murder. They had been accompanied to the island by two policemen and two boat operators. Relatives of Madal Barorong followed on a second boat. The two parties were separated for an hour after the shooting began. When the relatives of Madal Barorong came to collect the members of the CHRP, they told them that their boat had been confiscated and presented four spent cartridges from an M16 rifle, three spent cartridges from a Garand, and three spent cartridges from an M14 rifle. Madal Barorong's relatives reported that the attack had been carried out by a Sergeant whose identity was known to the Special Rapporteur and who was accompanied by the alleged murderer of Madal Barorong.

2105. The members of the CHRP immediately reported what had happened and handed in the cartridges at Vitali Police Station. On 23 June 2008, Atty Jose Manuel S Mamauag, Regional Director of the CHRP, filed charges against the Sergeant, who is supposedly responsible for the attack against the members of the CHRP, for attempted murder. These charges were filed to the Sergeant's Battalion Commander, to his Division Commanding General and to the Zamboanga City Police Office. So far there has been no response from the Battalion Commander or the Division Commanding General.

2106. Concern was expressed that the attack against the members of the CHRP may be directly related to their non-violent activities in defense of human rights, in particular their work to expose human rights violations in the Philippines. In view of the incident outlined above, serious concern was expressed for the physical and psychological integrity of the members of the CHRP.

### **Urgent appeal**

2107. On 29 August 2008, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, sent an urgent appeal regarding threats against Fr **Romeo Tagud**, a priest in the Iglesia Filipina Independiente (IFI – Philippine Independent Church); and the harassment of members of Karapatan-Central Visayas, namely Mr **Dennis Michael J Abarrientos**, Secretary-General; Ms **Vimarie Arcilla**, Public Information Officer; Mr **Jean H Suarez**, Research-documentation Officer; and Ms **Concordia Oyoa**, Direct-services Officer. Karapatan-Central Visayas is a member organization of the KARAPATAN Alliance for the Advancement of People's Rights.

2108. Previous threats against Fr Romeo Tagud were mentioned in an urgent appeal sent by the then Special Representative of the then Secretary-General on the situation of

human rights defenders to your Government on 13 October 2006. The Government's responses to this urgent appeal were received on 23 October 2006 and 27 November 2006.

2109. According to new information received, Fr Romeo Tagud reportedly joined a delegation of Filipino Americans from the California-Nevada Annual Conference of the United Methodist Church, based in the United States of America, which visited the Philippines from 30 June to 2 July 2008. After Fr Romeo Tagud exposed human rights abuses allegedly committed by the military in certain villages, and the deterioration of respect for human rights on the island of Negros, particularly in areas of heavy military presence, the delegation decided to support a campaign against extrajudicial killings and other human rights violations in Negros. This raised the profile of human rights issues in Negros and attracted international attention. The military subsequently criticized the delegation in the local press for having supposedly violated the human rights of the residents of Linantuyan.

2110. On 1 August 2008, Fr Romeo Tagud took part in a press conference in Bacolod City. There he expressed the views of the IFI on poverty, corruption, extrajudicial killings, the implications of mining in Guihulngan City and Hinobaan, and other alleged human rights violations.

2111. On 3 August 2008, at approximately 6:30 a.m., Fr Romeo Tagud was given an envelope containing a bullet from an M16 armalite rifle by a girl of approximately five or six years of age whose identity is unknown. Fr Romeo Tagud had just participated in Sunday mass and was walking towards the parish house at the time. The girl told him that the envelope was an offering for the church.

2112. Meanwhile, since 18 June 2008, members of Karapatan-Central Visayas have been investigating the disappearance of a man who was allegedly abducted by members of the military in Negros on 11 June 2008. In response, the military reportedly publicly accused Ms Vimarie Arcilla of working for the Maoist New People's Army rebels and declared that it planned to file charges against her for the kidnapping of a witness in the disappearance case. These charges are now lodged at the prosecutor's office in Dumaguette Central, Negros Oriental. They are allegedly unfounded and have been filed by the military as part of a smear campaign against those who speak out against them. The military had previously filed charges of multiple murders against Ms Vimarie Arcilla in April 2006 after she had investigated other human rights violations supposedly committed by military members. These charges were dismissed by the Regional Trial Court 7, Branch 29 in Toledo City for "lack of probable cause".

2113. Since then threats have been sent sporadically to members of Karapatan-Central Visayas. On 21 August 2008, threats were sent simultaneously to Mr Dennis Michael J Abarrientos, Mr Jean H Suarez, Ms Concordia Oyoa, and Ms Vimarie Arcilla while they were in a meeting. On 24 August 2008, between 10.30 a.m. and 11.00 a.m., the four members of Karapatan-Central Visayas again received threats by text. Among the threats against the members of Karapatan-Central Visayas were the following messages: "I know



what you are doing HR. Your time is up!!!” and “Stop your Fault-Finding Missions...or suffer the consequences!!!”

2114. Serious concern is expressed that Fr Romeo Tagud may have been threatened for speaking out about human rights violations on the island of Negros. Serious concern is also expressed that the threats against members of Karapatan-Central Visayas and the accusations against Ms Vimarie Arcilla may have may be directly related to their investigation of alleged human rights violations in Negros. Further concern is expressed for the physical and psychological integrity of Fr Romeo Tagud, as well as that of all members of Karapatan-Central Visayas. It is feared that the threats against Fr Romeo Tagud and the members of Karapatan-Central Visayas may form part of an ongoing pattern of harassment against members of the IFI and other human rights defenders in the Philippines after the murders of Bishop Alberto Ramento and Fr Diniosio Ging-Ging, and the death threats against Fr Antonio Ablon, Fr Terry Revollido, Fr Sonny Teleron and Fr Marco Sulayao in 2006.

### **Letter of allegations**

2115. On 3 September 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations regarding the **failure to recognize the Bleustar Workers Labor Union (BWLU) as a trade union**. According to information received:

2116. On 24 July 2008, over 40 members of the BWLU were dismissed from their jobs with the Bleustar Manufacturing and Marketing Corporation (BMMC) without receiving an adequate explanation. On 25 July 2008, there was a certification election to establish whether the trade union would be legally recognized. Although according to the Philippine Labor Code only laborers rather than employees in management positions have the right to vote in such elections, 28 BMMC employees in management positions were allowed vote in the certification election. Because the votes of the members of the BWLU who had lost their jobs were not counted, and because the votes of the BMMC employees in management positions were counted, the result of the Certification Election was not to legally recognize of the BWLU as a trade union. Consequently the BWLU is unable to defend the rights of its members as employees of the BMMC. Most notably the BWLU is unable to defend the rights of many female BWLU members who have reportedly been the victims of regular acts of sexual harassment, perpetrated by an employer whose identity is known, but who have remained silent about such acts out of fear of losing their jobs.

2117. Concern was expressed that the dismissal of the members of the Bleustar Workers Labor Union may be related to their legitimate activities in defense of its members' rights. Further concern was expressed for the physical and psychological integrity of the members of the Bleustar Workers Labor Union who have reportedly been subjected to sexual harassment.

### **Letter of allegations**

2118. On 6 October 2008, the Special Rapporteur sent a letter of allegation to the Government concerning the detention of Messrs. **Felix Nardo, Bernardo Derain, Renato Alvarez, Jomel Igana and Franco Remoroso**, and Mses. **Janice Javier, Yolanda Caraig, and Neshley Cresino**, all members of the Kilusang Magbubukid ng Pilipinas (KMP – Peasant Movement of the Philippines).

2119. According to information received, on 31 August 2008, the aforementioned members of the KMP were travelling to a meeting in Rizal concerning preparations for Peasant Week, an annual event scheduled to take place in October. They were reportedly stopped at a checkpoint by members of the Batangas Air Force and the Philippine National Police (PNP) and asked to get out of their vehicle. Their hands were tied, their mouths were covered by tape and they were told to get into separate vehicles. They remained in detention at a PNP station, under reportedly false accusations of being rebels. Reportedly unfounded charges of illegal possession of explosives were also brought against Mr. Felix Nardo.

2120. Concern was expressed that the detention of the aforementioned members of the KMP may have been related to their activities in the defense of peasants' rights. Further concern was expressed for the physical and psychological integrity of the members of the KMP. Fear was expressed that the incident described above may form part of an ongoing trend of harassment against peasants' rights defenders in the Philippines.

### **Response from the Government**

2121. In a letter dated 8 January 2009, the Government indicated that the facts alleged in the communication are not accurate. On 31 August 2008, Messrs Felix Nardo, Berndo Derain, Renato Alvarez, Jomen Igana and Franco Remoroso, and Mdmes Janice Javier, Yolanda Caraig and Neshley Cresino were arrested by the combined elements of Silang Municipal Police Station, Cavite Special Operations Group, SWAT, 403<sup>rd</sup> Police Provincial mobile Group with the support of the Armed Forces of the Philippines (AFP) personnel at about 3:30am in Tartaria, Silang, Cavite, in a police checkpoint operation. These individuals were on board a vehicle without license plate heading to Tagaytay City when they were flagged down at a police checkpoint. Instead of stopping, the vehicle accelerated and disregarded the established checkpoint. One of the passengers, identified as Igana, hastily got out of the vehicle and tried to escape but was stopped by the police. Confiscated from their possession were one Colt Commander .45 caliber; one 9 mm pistol and undetermined quantity of assorted explosive and devices; and one fragmentation grenade. A criminal complaint was filed against the abovementioned individuals. They were ordered release on 2 September 2008 by the Provincial Prosecutor for the conduct of a regular preliminary investigation, which was conducted on 3 November 2008, wherein all the accused failed to attend and was reset by the investigating prosecutor on 1 December 2008. Accused were required to submit their rejoinder after which the case will be submitted for resolution. A complaint against the accused for violation of Presidential Decree 1866 as amended by the Republic Act (RA) 8294 for illegal possession of firearms and explosives was referred before the Department

of Justice (DOJ) in Manila docketed under IS NO.TG-08-4391. To date, no sanctions have been imposed against anybody.

### **Urgent appeal**

2122. On 5 November 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal regarding Atty. **Remigio Saladero Jr.**, human rights and labor attorney, member of the National Union of Peoples' Lawyers, member of the chief legal counsel for the trade union alliance Kilusang Mayo Uno (KMU), and Chairperson of the Pro-labor Legal Assistance Centre (PLACE).

2123. A letter of allegations was sent to your Government by the then Special Representative of the Secretary-General on the situation of human rights defenders regarding PLACE on 9 November 2007. No response from your Government has yet been received. According to the information received:

2124. On 23 October 2008, Atty. Remigio Saladero Jr. was arrested by members of the Philippines National Police from Antipolo City. The police officers allegedly entered the office where Atty. Remigio Saladero works, presented a warrant for arrest on charges of multiple murder and multiple frustrated murder cases, handcuffed him, confiscated his mobile telephone and computers, and took him to Calapan City Provincial Jail where he currently remains in detention. The warrant, issued by branch 40 of the Mindoro Oriental Regional Trial Court (RTC) in Calapan City, Oriental Mindoro, was apparently invalid given that the name on it was not that of Atty. Remigio Saladero Jr., showed a different address and was dated 2006. Atty. Remigio Saladero Jr. was charged for "multiple murder and multiple frustrated murder cases" with 72 other people, among whom there may have been human rights defenders. The legal team representing Atty. Remigio Saladero Jr. has requested documents relating to his arrest but has not yet been provided with any.

2125. Meanwhile, Atty. Remigio Saladero Jr. continues to face judicial proceedings for a previous case. He is being investigated in relation to a complaint for "conspiracy to commit rebellion, arson and destruction of property" made by Globe Telecoms against 27 leaders and activists from Southern Tagalog region following the bombing of a Globe Telecoms Cell site in Lemery Batangas on 2 August 2008. He has not yet been officially charged in relation to this case. Atty. Remigio Saladero Jr. has reportedly also been the victim of numerous attacks, supposedly in relation to his work as a human rights lawyer.

2126. Concern was expressed that the arrest and detention of Atty. Remigio Saladero Jr. may be related to his work in the defense of human rights. Further concern was expressed that this may form part of an ongoing pattern of harassment against Atty. Remigio Saladero Jr.

### **Response from the Government**

2127. In a letter dated 19 January 2009, the Government indicated that Atty. Remigio Saladero's arrest was by virtue of the arrest warrant issued by the Regional Trial Court of Oriental Mindoro, Branch 40, in the case entitled "People of the Philippines vs. Rustom Simbulan a.k.a. Ka Bobby / Ka Bayan / Ka Silang / Ka Arthur, et al.", for multiple murder and multiple frustrated murder, docketed as Criminal Case No. CR-06-8525, wherein he is one of the named accused. The above criminal case was based on the incident that transpired on 3 March 2006, wherein a New People's Army (NPA) troop, composed of 71 accused in the case, ambushed elements of the Regional Mobile Group of the Philippines National Police (PNP) at Barangay San Isidro, Puerto Galera, Oriental Mindoro; three police officers died, while three others were seriously wounded. Accused Rustom Simbulan was identified by one of the surviving police officers in the incident, and hence was charged accordingly. Atty. Saladero has filed with the court a motion to quash the warrant for his arrest. On 23 October 2008, police operatives proceeded to the law office of Atty. Remigio Saladero, located along Circumferential road, Barangay San Jose, Antipolo City, to effect the aforementioned arrest warrant. After confirming the identity of the subject, the team arrested Atty. Saladero who was apprised of his constitutional rights. He was brought to the Rizal Police Provincial Office and then to the Regional Trial Court in Calapan City. Atty. Saladero is currently detained at the Oriental Mindoro Provincial Jail in Calapan City by virtue of a commitment order by Executive Judge Manuel C. Luna, dated 24 October 2008. In another case, Atty. Saladero was named as one of the respondents in a criminal complaint filed by the Batangas Criminal Investigation and Detection Team (CIDT) against Nestor Samarita if Rosario, Batangas, and 17 others with the Batangas Provincial Prosecutor's Office on 25 August 2008 for violation of article 324 of the Revised Penal Code (Arson), docketed un IS No. 08-1002. This is in connection with the bombing of Globe Cell site at Barangay Mahabang Parang, Dahilig, Lemery, Batangas, on 2 August 2008. The case is now undergoing preliminary investigation before the Prosecutor's Office of Batangas.

### **Urgent appeal**

2128. On 12 November 2008, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, sent an urgent appeal regarding the alleged disappearance and detention of Mr. **James Balao**, founder of the indigenous human rights group, the Cordillera Peoples Alliance, and member of the Ibaloi and Kankanaey tribes of Benguet. According to the information received:

2129. At 6:45 a.m. on 17 September 2008, Mr. James Balao sent a text message to his family informing them that he was leaving his residence in Fairview, Baguio City to travel to his family residence in La Trinidad, Benguet. He did not arrive to his family residence as expected and has not been seen or heard from since. However, it is now believed the Mr. Balao is alive and is being held at one of the detention facilities of Philippines state security forces, although the exact details of his whereabouts are unclear.

2130. It is alleged that state security forces are responsible of the disappearance. Since June 2008, Mr. Balao had reported to friends and family that he was under surveillance

by the Intelligence Service Unit of the Armed Forces of the Philippines, institutions that are connected to the Philippines army, including being followed by a van with the license plate USC 922, which has also been seen parked inside the Intelligence Security Unit compound in the Navy Base of Baguio City. The surveillance of Mr. Balao had increased in the week before his disappearance. It is also reported that Mr. Balao was listed head of the Communist Party of the Philippines Education Bureau in the Ilocos and Cordillera regions by the Philippines army.

2131. In response to the disappearance, a petition for a Writ of Amparo was filed in Regional Trial Court 63 of Benguet, asking the court to “(a) ... to disclose where James Balao is detained or confined, (b) to release James Balao considering his unlawful detention and (c) to cease and desist from further inflicting harm upon his person.” The petition also prays for an inspection order “to permit the entry of authorized persons for the purpose of inspecting, measuring, surveying and photographing the property or any relevant object or operation thereon” of police and military facilities at the Camps Aguinaldo and Crame in Quezon City, Fort Bonifacio in Taguig City, the 50th IBPA in San Juan, Ilocos Sur, MIG in Camp Allen, Baguio City, the ISU in Navy Base, Baguio City, including the Northern Luzon Command (NOLCOM) and the Headquarters of the 5th Infantry Division in Isabela province. This case is still pending.

2132. On 28 and 29 October, a delegation of the Balao family, and groups Karapatan, Hustisya, Kalipunan ng mga Katutubong Mamamayan sa Pilipinas (KAMP), Desaparecidos, the Cordillera Peoples Alliance, and the Cordillera Human Rights Alliance traveled to the National Capital Region to conduct a search for Mr. Balao in military and police camps. Nevertheless, they were refused entry at the receiving office of the Intelligence Services of the Armed Forces of the Philippines (ISAFP) and the gates of the Armed Forces of the Philippines (AFP) Detention Center at Camp Aguinaldo.

2133. Although some Government representatives have expressed support for the search for Mr. Balao, including members of the Baguio City Council, the Benguet Provincial Board, Municipal Council of La Trinidad, and the Governors of Benguet Province, Mountain Province, and Ifugao Province, authorities have taken no action to investigate the disappearance of Mr. Balao, asserting instead that his abduction was the result of a personal dispute within his clan.

2134. It is alleged that this incident is part of a broader pattern in the Philippines of prosecuting indigenous peoples for terrorist activity because of their involvement in legitimate social protest and defense of their rights. The disappearance of Mr. Balao is allegedly part of the Oplan Bantay Laya policy of the Philippines army, under which groups, including indigenous communities, are accused of being supporters of the Communist Party of the Philippines, the National Democratic Front of the Philippines, or the New People’s Army. This policy has led to the surveillance, harassment, violence, abduction, and assassination of members of human rights groups, including indigenous groups. It is reported that at least six indigenous activists have been killed extra judicially under this policy in the last four years.

**Response from the Government**

2135. In a letter dated 24 November 2008, the Government indicated that, based on the investigation conducted by the Philippine National Police, on 17 September 2008, Mr James Balao left his rented house at Purok 3, Central Fairview, Baguio City, to visit his family in La Trinidad, Benguet. Accordingly, he informed his relatives of his plan to go home through text message at about 6:45am of the same date. In the afternoon of the same day, Ms Beverly Longid, Chairperson of the Cordillera People's Alliance (CPA) called up the Regional Director of the Police Regional Office of Cordillera (PRO-Cordillera) to inform that his colleague, James Balao, cannot be contacted which was very unusual as he usually informs his colleagues of his whereabouts. On 20 September 2008, Ms Mignonet Balao y Moy, sister of James Balao, reported the incident to La Trinidad Municipal Police Office. At the same time, Mr Winston Balao, brother of James Balao, also reported the same incident to Police Station 1 of Banguio City Police Office (BCPO). A "Task Force Balao" was then created on 20 September 2008 by the Regional Director of PRO-Cordillera. Based on the investigation, Ms Beverly Longid informed the authorities that Mr James Balao divulged to his family and relatives that his daily chores at his rented house were under surveillance by unknown individuals aboard white and blue vans with plate numbers USC 922 and TNH 787. Information has also been gathered from people living in the neighborhood of Mr Balao. The PNP has likewise coordinated with the military regarding the case, but denied any knowledge on the alleged abduction of Mr Balao. In October 2008, Task Force Balao, with the help of the Balao family and the Cordillera People's Alliance, were able to convince two witnesses to shed light on the incident. Cartographic sketches were made on the suspects. At present, no one is charged in connection with the case since the Philippine National Police (PNP) cannot file appropriate charges against any alleged perpetrator only on the basis of allegations without any substantial and corroborating evidence from eyewitnesses. Nevertheless, the PNP is continuing with its investigation and has intensified information gathering on the subject's whereabouts.

2136. In a letter dated 6 February 2009, the Government added that on 8 October 2008, a petition for a writ of Amparo on behalf of Mr James Balao was filed before the Regional Trial Court (RTC) Branch 63, La Trinidad, Benguet. The petition is docketed as Pl. Proc. No. 08-AMP-0001. The writ ordered the respondents to file a verified return within 5 days from receipt thereof and set the initial hearing on the case on 16 October 2008. The following are respondents in the case: (a) President of the Republic of the Philippines; (b) Executive Secretary of the President; (c) Secretary of the Department of National Defense; (d) Secretary of the Department of Interior and Local Government; (e) National Security Advisor; (f) Chief of Staff, Armed Forces of the Philippines; (g) Director General, Philippine National Police; (h) Chief of Staff, Philippine Army; (i) Chief, Criminal Investigation and Detection Group; (j) Commanding General, Northern Luzon Command, AFP; and (k) Director, Police Regional Office-Cordillera Administrative Region. The petition alleges that Mr James Balao, prior to his alleged disappearance on 17 September 2008, reported to the CPA and his family that he was allegedly under surveillance by agents of the Armed Forces of the Philippines (AFP)-ISU based in Navy Base, Baguio City and PNP Intelligence Unit (PNP R2) based in Camp

Dangwa, La Trinidad Benguet. Mr James Balao also reported that several vehicles had been tailing his daily routine. Petitioners believe that Mr James Balao was abducted because of his political beliefs and the Government's purported "all out war" policy. In their return dated 27 October 2008, respondents categorically declared that they did not have any direct or indirect participation in the alleged abduction of Mr James Balao. In fact, they do not personally know Mr James Balao or have any knowledge of his activities. The affidavit of Police Sr. Supt. Eugene Martin declared that the Police Regional Office-Cordillera Administrative Region, PNP did not have any participation in the purported abduction of Mr James Balao. In fact, upon receiving information of the alleged disappearance, he immediately sent flash alarm to all lower units to locate Mr James Balao. He ordered also the creation of Task Force Balao to fast track the investigation. On the other hand the 3rd AFP-ISU has no intelligence operations in Baguio City. Likewise, the Navy Base where the alleged vehicle with plate No. USC 922 was found is an Army Cottage house where the Commanding General of the Philippine Army stays during his official visits in Baguio City and the vehicle is not one of the properties listed in the inventory of property ISU. The declarations that the PNP and AFP do not have any knowledge or participation in the alleged abduction of Mr James Balao were corroborated by the affidavits of 2 neighbours of Mr James Balao. Hearings on the case were held on 16, 23 and 30 October 2008. Petitioners offered 5 affidavits and testimonies. On 17 November 2008, the Office of the Solicitor General (OSG) received a copy of petitioners' formal offer of exhibits. On 14 November 2008, the OSG filed its comments/opposition thereto. During the last hearing held on 27 November 2008, the OSG manifested that since the petitioners had not presented substantial evidence to prove their case as required by the Rule of the Writ of Amparo, respondents were not presenting any evidence; hence, they were submitting the petition for resolution. On 8 December 2008, the OSG received a copy of trial court's order directing both parties to file memorandum within 5 day from receipt thereof. In lieu of memorandum, the OSG filed a manifestation and motion stating (1) the paragraph; and (2) in any case, respondents had exhaustively presented their position vis-à-vis the claims of petitioners in their petition; hence, they begged to adopt their verified return as their memorandum in the case. A decision is pending.

### **Observations**

2137. The Special Rapporteur thanks the Government for its responses, but regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications of 4 October 2007, 9 November 2007, 14 March 2008, 23 April 2008, 30 April 2008, 7 May 2008, 20 June 2008, 9 July 2008 (x2), 29 August 2008 and 3 September 2008. She considers response to her communications an important part of the cooperation of Governments with her mandate. She urges the Government to respond to the concerns raised by her, and provide detailed information regarding investigations undertaken as well as protective measures taken.

2138. The Special Rapporteur is concerned regarding the persistent challenges faced by human rights defenders in the Philippines, including extrajudicial killing, threats and intimidation, arbitrary arrest and detention, and illegitimate restrictions to the right of

freedoms of opinion and expression, peaceful assembly and association. She urges the Government of the Philippines to conduct thorough investigations in each case and prosecute the perpetrators. This is essential in order to create a safe environment conducive to the work of defenders.

2139. The Special Rapporteur hopes that the Government of the Philippines will respond favourably to her request of November 2008 to visit the country in order to strengthen the dialogue with the authorities.

## **Russian Federation**

### **Letter of allegations**

2140. On 18 January 2008, the then Special Representative sent a letter of allegations to the Government concerning **Voice of Beslan**; a human rights organization representing the victims of the Beslan School hostage crisis, in which a terrorist group seized a school, taking 1,128 hostages and killing over 200 adults and children in 2004. It has monitored and publicly criticised the Russian Federation authorities' handling of the investigation into the tragedy.

2141. According to information received, on 19 December 2007, the Supreme Court of North Ossetia reportedly upheld a decision to ban the human rights organization Voice of Beslan. On 25 August 2007, Voice of Beslan had reportedly been ruled illegitimate by a district court in Vladikavkaz which withdrew its official registration. The organization was reportedly "re-registered" by the authorities under new leadership and different membership. In response to this decision, Ella Kesaeva, chairperson of Voice of Beslan, is reported to have initiated a hunger strike.

2142. Furthermore, the acting prosecutor of Nasran, Ingushetia, M. Aushev, had filed a complaint to the Nasran district court against Voice of Beslan, accusing the organization of extremism. The hearing was scheduled to take place on 14 January 2008.

2143. The organization had submitted an appeal to the European Court of Human Rights and had called for an international inquiry into the conduct of Russian Federation security forces during the rescue operation. Concern was expressed that the judicial proceedings against Voice of Beslan, and the ban imposed on it, may be directly linked to its work in defense of human rights, particularly its critical comments on the Beslan investigation.

### **Response from the Government**

2144. In a letter dated 12 March 2008, the Government of the Russian Federation responded to the above communication. The letter stated that, according to information supplied by the public prosecutor's office of the Republic of North Ossetia-Alania, the North Ossetian human rights organization Voice of Beslan, representing the victims of terrorist acts, was registered by the North Ossetia-Alania office of the Federal



Registration Service on 25 June 2006. The letter further stated that Ms. E.L. Tagaeva was registered as the chairperson of the council of Voice of Beslan and that the organization's statute does not explicitly set out the organization's human rights functions. The courts had heard several civil cases relating to the activities of Voice of Beslan.

2145. On 27 October 2006, the North Ossetia-Alania Right-bank District Court had ruled that the minutes of the organization's general meeting were invalid. The ruling of the regional court was confirmed by a decision handed down by the Supreme Court of North Ossetia-Alania. On 24 May 2007, the North Ossetia-Alania office of the Federal Registration Service received an application from Ms. M.B. Melikova, a member of Voice of Beslan, for State registration of amendments to the organization's constitutive documents (the address of a lawyer and information concerning the founders).

2146. Under Order No. 87-S, of 22 June 2007, the North Ossetia-Alania office of the Federal Registration Service had rejected the application to make the amendments in question in the State register. Ms. Melikova appealed against this decision before the courts, on the grounds that the Order violated her rights and lawful interests. The decision by the North Ossetia-Alania office of the Federal Registration Service to refuse to include the amendments to the constitutive documents of the Voice of Beslan organization in the State register was the subject of an appeal before the Lenin District Court in Vladikavkaz. On 24 August 2007, the court ruled that the office's decision was unlawful and ordered it to register the amendments in question.

2147. On 19 December 2007, the Judicial College for Civil Cases of the North Ossetia-Alania Supreme Court ruled that the district court's decision should stand. Following the entry into force of the court's decision and a renewed application by Ms. Melikova, the North Ossetia-Alania office of the Federal Registration Service issued Order No. 18-S of 11 February 2008, which contained the decision to register the amendments to the constitutive documents of the Voice of Beslan and the amended details of the persons entitled to act on their own authority on behalf of the organization. Copies of the Order and documents had been transmitted to the North Ossetia Alania office of the Federal Taxation Service so that the amendments could be duly entered in the Uniform State Register of Legal Entities.

2148. In view of the fact that the decision by the Lenin District Court in Vladikavkaz on 26 September 2007 was upheld by the Judicial College for Civil Cases of the North Ossetia Alania Supreme Court on 18 December 2007, the complaint of the North Ossetian human rights organization of victims of terrorist acts, Voice of Beslan, represented by Ms. E.L. Tagaeva, that the action of the North Ossetia-Alania office of the Federal Registration Service had acted unlawfully with regard to the reception and consideration of its application for the official registration of amendments to the constitutive documents of the Voice of Beslan was rejected. On further investigation, it was established that the question of banning or disbanding the North Ossetian organization Voice of Beslan by the State authorities or the North Ossetia-Alania law enforcement agencies had never arisen. The organization was still active.

2149. On 3 December 2007, the public prosecutor of Nazran, in the Republic of Ingushetia, requested that the Nazran District Federal Court, on the basis of article 13 of the Extremist Activities (Prevention) Act, rule that a communication addressed to “All who sympathize with the victims of the Beslan terrorist act”, distributed by Voice of Beslan, was extremist. He stated that he had done so on the grounds that the communication contained the accusation that Mr. V.V. Putin, President of the Russian Federation, abetted terrorism. Upon the application of Ms. E.L. Tagaeva, chairperson of Voice of Beslan, the Nazran District Court of the Republic of Ingushetia ruled on 15 January 2008 that the civil case should be transferred for further consideration to the North Ossetia-Alania Right-bank District Court.

2150. According to information provided to the Supreme Court of the Russian Federation, the case was transferred to the district court on 12 February 2008. The date of the hearing has not yet been fixed. The court had issued a request that the North Ossetia-Alania office of the Federal Registration Service should identify respondents in the case. Once this had been done, a decision will be taken on how to proceed.

### **Letter of allegations**

2151. On 20 February 2008, the then Special Representative sent a letter of allegations to the Government concerning Ms **Emma Tagaeva-Betrozova** and Ms **Ella Kesaeva**, chair and deputy-chair respectively of the non-governmental organization Voice of Beslan, and Ms **Svetlana Margieva** and Ms **E. Bzarova**, members of the same organization formed by victims of the Beslan school crisis. Voice of Beslan was the subject of a letter of allegation sent by the Special Representative on 18 January 2008.

2152. According to new information received, on 8 February 2008, a group of people, including a man who claimed he was a police investigator, came to the home of Ms Emma Tagaeva-Betrozova. This individual informed the women of an accusation pending against Ms Kesaeva, Ms Margieva and Ms Bzarova, which alleged that they had assaulted seven judicial police officers and a judge in the building of the Beslan Pravoberezhny district court.

2153. The investigator advised Ms Kesaeva, Ms Margieva and Ms Bzarova that they would receive a summons to present themselves for interrogation on 11 February 2008 at the UFSSP in North Ossetia-Alania. The summons, which was duly served, stated that if they failed to appear there for the interrogation, they would be brought there by force. On 11 February 2008, the three women went to the UFSSP in North Ossetia-Alania, where they drafted written statements, stating that the incident in question had not occurred and there had been no assault.

2154. The aforementioned were then informed that the report on the alleged assault had been submitted by the judge Zaurbek Tavitov and one of the “new Voice of Beslan” members, a woman who reportedly may have links with the Federal Security Service (FSB). Reports indicated that a few days earlier, the chair of the Pravoberezhny district

court of Beslan had warned Ms Kesaeva that if she did not stop submitting appeals and complaints, a case would be opened against her.

2155. On 15 January 2008, the Prosecutor's office of Ingushetia filed a complaint against the Voice of Beslan in the Nazran District Court for "extremist activities". The charges were brought under the 2007 amended Law on Extremism, which broadens the definition of extremist activities to include "slander of public officials" and "humiliating national pride". This legislation may be applied retroactively and as such, the operations of the organisation could be suspended. Concern was expressed that the possible suspension of activities of the Voice of Beslan and the assault charges brought against three members of the organization may be directly related to their activities in defense of human rights, particularly their work seeking justice for victims of the Beslan hostage crisis.

### **Response from the Government**

2156. In a letter dated 21 April 2008, the Government of the Russian Federation responded to the above communication. The letter stated that, on 7 February 2008, Mr. Z.B. Tavitov, a federal judge of the Pravoberezhny District Court in the Republic of North Ossetia-Alania, considered a claim brought before the court by Ms. Z.B. Kesaeva, Ms. S.P. Margieva and Ms. E.D. Bzarova, former members of the "Voice of Beslan" human rights organization (referred to below as "the Organization").

2157. The letter further stated that the plaintiffs requested that the court find that the minutes of the Organization's general meetings, which had excluded the persons in question from its membership, were illegal. Three court security officers from the Federal Court Security Officers Service (FCSOS), North Ossetia-Alania office, provided security for those taking part in the proceedings. After Mr. Tavitov issued his ruling in the civil case (declaring the minutes of the general meetings to be legal), the plaintiffs, Ms. Kesaeva, Ms. Margieva and Ms. Bzarova, expressing dissatisfaction with the decision, attempted to block the exits of the courtroom and prevent Mr. Tavitov and the court clerk from leaving the premises. They used insulting language towards the defendant, Ms. M.B. Melikova and Mr Tavitov and Ms Margieva attempted to hit the latter. The court security officers intervened to stop the assault and to clear an unimpeded exit from the courtroom for the judge and the clerk. At the same time, Ms Kesaeva insulted. The court security officers subsequently escorted all the participants in the proceedings out of the courtroom.

2158. The court security officers had cited Ms. Kesaeva, Ms. Margieva and Ms. Bzarova for administrative offences under article 17.3, part 2, of the Code of Administrative Offences of the Russian Federation. However, the three women refused, in the presence of witnesses Ms. S.S. Digurova and Ms. A.E. Turieva, to be questioned about their illegal actions and to sign the record of events. On 6 March 2008, the case file addressing the question of whether the three women should face administrative court proceedings was sent to Ms. Z.B. Archegova, the justice of the peace for court district No. 11 of Pravoberezhny district in the Republic of North Ossetia-Alania.

2159. Federal judge Tavitov applied for the corresponding criminal charges to be brought against Ms. Kesaeva, Ms. Margieva and Ms. Bzarova, and an application was also filed by Ms. Melikova. In accordance with articles 144 and 145 of the Code of Criminal Procedure of the Russian Federation, the FCSOS carried out the resulting inquiry. On 8 February 2008, as part of the inquiry, the head of the initial inquiry department of the FCSOS, Mr. T.K. Khetagurov, with witnesses, visited Ms. Kesaeva's home in order to question her, and also Ms. Margieva and Ms. Bzarova, who were in her house at the time, but they refused to be interviewed. Mr. Khetagurov subsequently warned them that he would subpoena them for questioning at the FCSOS.

2160. Subpoenas for the three women had been served by court security officers on 9 February 2008. The three voluntarily went to the FCSOS, where they were questioned by the head of the initial inquiry department, Mr. Khetagurov, and by detective A.V. Emmanulidi. The illegal actions of Ms. Kesaeva, Ms. Bzarova and Ms. Margieva were carried out after the trial had concluded, and after the court had delivered its verdict in the civil case. The initial inquiry bodies of the FCSOS verified the circumstances of the case, and on 12 February 2008 it was decided not to open a criminal case under article 297 of the Russian Criminal Code (Contempt of court), in the light of article 24, part 1, section 2, of the Code of Criminal Procedure, as the actions of the three women did not constitute an offence.

2161. In accordance with articles 151 and 447 of the Code of Criminal Procedure of the Russian Federation, the case file was transferred from the FCSOS to the office of the procurator of Pravoberezhny District in the Republic of North Ossetia-Alania, so that it could consider whether criminal charges should be brought under article 296 (Threat or use of force in connection with the administration of justice or ? preliminary investigation), article 297, part 2 (Contempt of court) and article 318, part 1 (Use of force against a government official) of the Criminal Code of the Russian Federation.

2162. An inquiry by the central authorities of the FCSOS found no evidence that offences were committed by the court security officers. On 22 February 2008 Mr. A.S. Badtiev, the senior investigator of the Pravoberezhny Inter district Investigations Department of the North Ossetia-Alania procurator's office investigating committee, decided not to bring criminal charges against the three women, as their actions showed no evidence of a crime covered by article 297, part 2, article 318, part 1, and article 296 of the Russian Criminal Code. The case file concerning the battery committed by Ms. Kesaeva against Ms. Melikova was sent by the investigator to the justice of the peace to be handled as a private complaint.

2163. Meanwhile, on 3 December 2007, the public prosecutor of Nazran, in the Republic of Ingushetia, requested the Nazran District Federal Court, on the basis of article 13 of the Extremist Activities (Prevention) Act, to rule that a communication addressed to "All who sympathize with the victims of the Beslan terrorist act", distributed by the "Voice of Beslan", was extremist. He said he had done so on the grounds that the

communication contained the accusation that Mr. V.V. Putin, President of the Russian Federation, abetted terrorism.

2164. Upon the application of Ms Tagaeva, chairperson of the “Voice of Beslan”, the Nazran District Court of the Republic of Ingushetia ruled on 15 January 2008 that the civil case should be transferred for further consideration to the Pravoberezhny District Court in North Ossetia Alania. On 13 February 2008 a ruling was issued on the admission of statements and the preparation of the case for trial. On 14 February 2008 the North Ossetia-Alania office of the Federal Registration Service was asked to provide a copy of the statutes of the “Voice of Beslan” organization, as amended. A reply was received on 20 February 2008. A ruling issued by the Pravoberezhny District Court in North Ossetia-Alania on 24 March 2008 suspended the proceedings, pending the appointment of a commission of legal and linguistic experts to determine whether the material in question was extremist.

### **Letter of allegations**

2165. On 31 March 2008, the then Special Representative sent a letter of allegations to the Government concerning Messrs **Stanislav Dmitrievskiy, Ilya Shamazov and Yuri Staroverov** and **Ms Elena Evdokimova**. The aforementioned are all members of the Nizhny Novgorod Foundation for the Promotion of Tolerance. Mr Dmitrievskiy was the subject several communications sent by the former Special Representative on the situation of human rights defenders and other mandate-holders in recent years: on 24 October 2007, on 19 September 2007, on 8 February 2007, on 20 October 2006, on 21 November 2005, on 15 November 2005, and on 9 June 2005.

2166. According to information received, on 20 March 2008, the office of the Nizhny Novgorod Foundation for the Promotion of Tolerance was reportedly raided by police, who confiscated all computers on the premises, as well as the mobile phone of Mr Stanislav Dmitrievskiy. The search warrant was reportedly authorized by the Regional Prosecutor’s office.

2167. On the same day, the police searched the homes of several members of the Foundation in the area, including those of Messrs Ilya Shamazov and Yuri Staroverov, who had been actively involved in an investigation carried out by the Foundation on war crimes and human rights violations during the war in Chechnya. Ms Elena Evdokimova’s residence was reportedly also searched and both she and Mr Staroverov’s mobile phones were confiscated.

2168. Concern was expressed that the aforementioned search of the offices of the Nizhny Novgorod Foundation and the homes of its members could be directly related to their activities in defense of human rights. Further concern was expressed for the physical and psychological integrity of the aforementioned individuals.

### **Response from the Government**

2169. In a letter dated 30 April 2008, the Government of the Russian Federation responded to the above communication. The letter stated that on 12 February 2008, the Arzamas interdistrict investigative department of the investigative committee attached to the office of the procurator of the Russian Federation for Nizhny Novgorod province instituted criminal proceedings (case No. 130359) on the basis of evidence of an offence contrary to article 282 (Organization of the activities of an extremist organization), paragraph 2, of the Criminal Code of the Russian Federation. Mr. S.I. Kalintsev, a bus driver, gave Mr. D.B. Isusov 50 copies of the newspaper Drug naroda (Friend of the People), 147 copies of the newspaper Narodny nablyudatel (People's Observer) and 250 copies of self-adhesive leaflets of an extremist nature published by the interregional voluntary organization National Bolshevik Party, activities of which have been declared to be extremist and have been prohibited by a decision of the Moscow city court of 19 April 2007. During the investigation, information was received concerning the production of printed materials of the National Bolshevik Party at the office of the Foundation for the Promotion of Tolerance.

2170. On 20 March 2008, on the basis of a separate instruction from the investigative committee attached to the office of the procurator of the Russian Federation for Nizhny Novgorod province and decisions by the Arzamas city court of Nizhny Novgorod province, searches were conducted in the homes of Mr. I.F. Shamazov, Mr. Y.V. Staroverov and other members of the Foundation (17 searches in all); on instructions from the investigator, the office of the Foundation for the Promotion of Tolerance in Nizhny Novgorod was searched.

2171. Among the items found as a result of the searches were literature and insignia of the National Bolshevik Party, cellular communications devices and a large quantity of printed material relating to the activities of the National Bolshevik Party in the Russian Federation and Nizhny Novgorod province (including activities conducted after they were prohibited), notebooks, mobile telephones and recording media (in the office of the Foundation - two base units, a laptop computer, and a mobile telephone belonging to Mr. S.M. Dmitrievsky). The aforementioned items were included in the materials of the criminal case.

2172. On 28 February 2008, the criminal case was referred for further investigation to the department for the investigation of particularly serious cases of the investigative committee attached to the office of the procurator for Nizhny Novgorod province.

### **Letter of allegations**

2173. On 28 April 2008, the then Special Representative sent a letter of allegations to the Government concerning the “**For Human Rights**” movement, the Centre of International Protection and Ms Svetlana Davydova, a lawyer working in the latter organization. The Centre of International Protection collaborates on cases involving other human rights organizations, including the second appeal of the Russian Chechen Friendship Society to the European Court of Human Rights in Strasbourg and the case of the Nizhny Novgorod Foundation for the Promotion of Tolerance. The Special

Representative also called the government's attention to new information received in relation to Mr **Stanislaw Dmitrievsky** of the Russian-Chechen Friendship Society. Mr Dmitrievsky was a subject of a letter of allegation on 31 March 2008.

2174. According to information received, on the night of April 9 2007, the offices of the Centre of International Protection and of the "For Human Rights" movement, both based in the same building in Moscow, were raided by men in plain clothes, who claimed that the building belonged to them. These individuals broke down the iron doors and dismantled stairs connecting the floors of the two offices. Ms Davydova was present in the office at the time of the raid. On April 8, 2008, officers of the court had reportedly visited Mr Stanislaw Dmitrievsky's family home and threatened that they would confiscate all his property "to cover the debts of the Russian-Chechen Friendship Society".

2175. Concern was expressed that the raids on the offices of the aforementioned organizations and the harassment of Mr Stanislaw Dmitrievsky might be directly related to their activities in defense of human rights. Further concern was expressed for the physical and psychological integrity of the members of these organizations.

### **Response from the Government**

2176. In a letter dated 30 June 2008, the Government responded to the communication of 28 April 2008. At the time of the finalization of the current report, a translation of the reply was not available.

### **Letter of allegations**

2177. On 27 May 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning the prosecution of Mr. **Yuri Samodurov**, director of the Andrei Sakharov Museum and Human Rights Center. The Sakharov Center houses the only museum in Russia dedicated to human rights and has hosted exhibitions of photographs, children's drawings and other material illustrating past and present human rights abuses and violations.

2178. According to the information received, in March 2007, the Andrei Sakharov Museum and Human Rights Center hosted an exhibition showing provocative artwork that had been banned from several art galleries in Russia. The artwork reportedly depicts images that were considered by the prosecutor's office as being denigrating of Christianity. On 13 May 2008, following an investigation, Mr. Samodurov was charged with "inciting religious hatred" under Article 282 of the criminal code for hosting the exhibition. On the basis of article 15 of the Law on the Fight against Extremist Activities, if Mr Samodurov is found guilty on the current charges, the Sakharov Center would have to issue a public statement distancing within five days from the court ruling from Mr Samodurov's alleged extremist activities. Failure to do so could result in the dissolution

of the Sakharov Center. On the basis of article 19 of the Law on NGOs; if Mr Samodurov was found guilty he would have to resign from the organization's membership.

2179. The Special Rapporteurs were concerned that the Law on the Fight against Extremist Activities and NGO legislation can be used to silence human rights defenders. A similar situation already occurred with the closure of the Russian Chechen Friendship Society (RCFS), whose case had been brought to the attention of the Government in a letter sent by the then Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 8 February 2007, to which a response from the Government was had not been received (A/HRC/7/28/Add.1 paras. 1669-1672).

2180. Concern was expressed that the charges against Mr. Samodurov represented an undue limitation on his right to freedom of opinion and expression, including in the form of art, and might be linked to his legitimate human rights activities.

### **Response from the Government**

2181. In a letter dated 18 July 2008, the Government responded to the communication of 27 May 2008. At the time of the finalization of the current report, a translation of the reply was not available.

### **Urgent appeal**

2182. On 12 June 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government concerning Ms **Larisa Dorogova** and her 20 year-old son, **Khadzimurat Dorogov**. Ms Dorogova is a lawyer and advocate of the rights of the Muslim community in the Republic of Kabardino-Balkaria (KBR).

2183. According to information received, on 9 May 2008, between 4 and 5 pm, Khadzimurat Dorogov, was forced into an unmarked white car by two unidentified Russian-speaking men on his way to the doctor's office. He was driven about in the vehicle for seven hours, during which time he was searched, had his mobile phone SIM card confiscated and was questioned about his mother's contacts and work. Ms Dorogova has also received death threats via email and post, including on 26 March 2008, when a live machine-gun cartridge was attached to the threatening letter. Reports indicated that Larisa Dorogova and her son had been under surveillance by unidentified individuals since 2005.

2184. Previously, on 16 April 2008, the president of the Lawyers' Chamber of Karabdinio-Balkaria initiated a disciplinary case against Dorogova, seeking to deprive her of her status as a lawyer. The case was based on a complaint received from the Federal Registration Service of Karabdinio-Balkaria and from the Prosecutor of Karabdinio-Balkaria. She was accused of unprofessional conduct because she had allegedly cursed and threatened to kill a worker of a pre-trial detention facility while trying to visit a client



in detention. At the time, Ms Dorogova appears to have been prohibited from entering the facility by order of the prosecutor's office, thus denying her clients in detention her legal assistance. The allegation from the prosecutor reportedly also claimed that she tried to enter the pre-trial detention facility without permission and without written order.

2185. Ms Dorogova represents defendants arrested in connection with a raid by Islamic militants on the premises of police and security forces in the city of Nalchik on 13 October 2005, who have allegedly been subjected to ill-treatment while in detention. She has also represented family-members of some of the 94 militants killed during the incident, assisting in the preparation of complaints to the European Court of Human Rights which alleged violation of the families' right to have the remains of those killed returned to them.

2186. Concern was expressed that the intimidation of Larisa Dorogova and the threats made against her, as well as the abduction of her son, may be directly related to her activities in defense of human rights, in particular the right to provide legal representation to her clients. In view of the events outlined, serious concern was expressed for the physical and psychological integrity of Ms Dorogova and her son, Khadzimurat Dorogov.

### **Letter of allegations**

2187. On 24 June 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning Ms **Ksenia Ludan**, an activist with the Other Russia coalition, an umbrella group of human rights organizations and a wide range of other civil society movements.

2188. According to information received, on 13 June 2008, Ms Ludan was detained as she left the temporary isolation facility in Guilyarovskiy Street, Moscow, where she had served four days of administrative custody following her sentencing under Article 20.1 (minor offence) of the Administrative Procedural Code for her participation in a protest on the premises of the Russian Railways company on 9 June 2008. The protest was organized to call for the respect of workers' rights of the employees of the Russian Railways company. As Ms Ludan was leaving the temporary isolation facility, plainclothes police agents of the UBOP organized crime unit, one of whom was identified as senior lieutenant Sergey Prikazchikov, stopped her and forced her into the vehicle.

2189. The police confiscated Ms Ludan's mobile phone and brought her to the prosecutor's office of the North-Eastern administrative district of Moscow for interrogation. Reports indicated that Ms Ludan was subjected to threats that she would be regarded as a suspect, not a witness, if she refused to answer their questions regarding two criminal cases of alleged extremism and vandalism and that she was forced to sign detention forms although she had not received any summons. Ms Ludan was released on Friday evening.

2190. Concern was expressed that the detention, interrogation and intimidation of Ms Ksenia Ludan may be directly related to her activities in defense of human rights, in particular workers' rights. In view of the nature of her detention, concern was expressed for the physical and psychological integrity of Ms Ludan.

### **Response from the Government**

2191. In a letter dated 4 September 2008, the Government responded to the communication sent on 24 June 2008. The Government reported that on 7 November 2007, the investigative authority of the investigative committee for Moscow attached to the Office of the Procurator of the Russian Federation instituted criminal proceedings (case No. 405127) on the basis of evidence of an offence contrary to article 214 (Vandalism), paragraph 2, and article 282 1 (Organization of an extremist association), paragraph 2, of the Criminal Code of the Russian Federation. On the night of 6/7 November 2007, unidentified individuals defiled the buildings of the area and district executive committees of the political party United Russia.

2192. In the course of the investigation, it was established that the unidentified persons, motivated by political hatred and enmity, sprayed paint on the walls of the buildings of the area and district executive committees of the political party United Russia; the buildings are situated on Kominterna, Shirokaya and Polyarnaya streets in Moscow. The individuals scattered leaflets (signed on behalf of the National Bolshevik and Other Russia organizations) containing information about disagreement with the policy being conducted by the country's leaders and expressing political hatred towards members of the United Russia party. The persons who committed the aforementioned acts are members of the National Bolshevik Party, an extremist organization that has been dissolved pursuant to an enforceable court decision owing to that organization's engagement in extremist activities.

2193. During the investigation of the criminal case, information was received that Ms. Ludan might have information about the persons who took part in the commission of aforementioned offences. In this connection, the investigator decided to question Ms. Ludan as a witness in the criminal case. In accordance with article 38 of the Code of Criminal Procedure of the Russian Federation, the investigator instructed officers of the internal affairs authority of the Department for Combating Organized Crime for the North Eastern Administrative Area of Moscow to establish the whereabouts of Ms. Ludan, and summon her to appear before the body conducting the pretrial investigation.

2194. On 13 June 2008, officers of the internal affairs authority of the Department for Combating Organized Crime for the North Eastern Administrative Area of Moscow established the whereabouts of Ms. Ludan: on 9 June 2008, Ms. Ludan had been arrested for participating in an unauthorized action and brought to the internal affairs office for the Kransoselsk internal affairs authority for Moscow's Central Administrative Area. Pursuant to article 20, paragraph 1 (Disorderly conduct), of the Code of Administrative Offences of the Russian Federation, administrative proceedings were brought against Ms. Ludan for her participation in the aforementioned action.

2195. On 10 June 2008, the Meshchansky district court of Moscow sentenced Ms. Ludan to administrative arrest for a period of four days in a special holding centre for persons arrested for administrative offences by the Moscow Central Internal Affairs Authority.

2196. On 13 June 2008, Ms. Ludan was released from the special holding centre. Officers of the internal affairs authority of the Department for Combating Organized Crime for the North Eastern Administrative Area of Moscow arranged for Ms. Ludan's appearance in the investigative department, where from 2 p.m. to 3 p.m. she was questioned as a witness by Mr. K.V. Karasev, the investigator of the investigative department for the North Eastern Administrative Area of the investigative authority of the investigative committee for Moscow attached to the Office of the Procurator of the Russian Federation. The officers of the internal affairs authority of the Department for Combating Organized Crime for the North Eastern Administrative Area of Moscow did not take part in the questioning and were not present during the investigation; they did not exert any psychological or physical pressure on Ms. Ludan. A personal search of Ms. Ludan was not conducted, and objects and documents belonging to her were not confiscated.

2197. After questioning, Ms. Ludan left the building of the investigative department. She was not detained pursuant to articles 91 and 92 (Grounds and procedure for arresting a suspect) of the Code of Criminal Procedure of the Russian Federation.

2198. The employees of the internal affairs office have no information concerning the whereabouts of Ms. Ludan. Subsequently and up until the present, Ms. Ludan has not been subjected to any measures, including arrest, on the part of internal affairs officers.

2199. There is no information about the receipt by law enforcement agencies of complaints from Ms. Ludan concerning unlawful arrest, militia officers' use of psychological and physical pressure, threats of criminal prosecution, or the unlawful confiscation of property. The case file does not contain any information concerning Ms. Ludan's arrest by officers of the Department for Combating Organized Crime or by other individuals after she was questioned.

2200. At present, the director of the investigative authority of the investigative committee for Moscow attached to the Office of the Procurator of the Russian Federation has been instructed to organize an investigation, in accordance with article 144 (Procedure for investigating reports of offences) and article 145 (Decisions to be taken on the basis of the investigation of the report of an offence) of the Code of Criminal Procedure of the Russian Federation, into the reports concerning unlawful acts committed against Ms. Ludan by militia officers.

### **Letter of allegations**

2201. On 2 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations concerning Mr **Anton Pavlovich Turin**, a correspondent for the *Samara Human Rights Information Agency Svoboda* in the city of Samara in the Samarskaya Oblast. Mr Turin participates in the monitoring of polling stations and voting commissions. He has also attended demonstrations and public actions in opposition to the use of torture by the authorities and military service.

2202. According to the information received, on the afternoon of 14 February 2008, two officers of the Organized Crime Department for the Samarskaya Oblast (UBOP) came to Mr Turin's home and asked that he return with them to the police station. Only one of the officers identified himself as field officer of UBOP by giving a name which is known to us. Turin asked what the reason for their request was and if they had a summons. Reports indicate that the officers then became aggressive toward Mr Turin and his mother and threatened to lodge an administrative complaint against the former if he did not accompany them to the station.

2203. While Mr Turin believed they were returning to the District Internal Affairs Department, he was in fact brought to office 212 at the UBOP station, where his personal belongings were examined by an officer, whose name is also known to us. Another officer took Mr Turin's mobile phone and left the room. Mr Turin was verbally and then physically assaulted by the first officer, who hit him twice on the right side of his face, and threatened him with further physical violence. Mr Turin screamed for help and the physical assault ended.

2204. The second officer returned and both began to question Mr Turin about his activities in Russia and his family and friends. The first officer again reportedly threatened Mr Turin, this time with planting narcotics on him and with preventative arrest, if he didn't calm down, stop taking part in mass actions, and stop monitoring polling stations and voting commissions as a correspondent for Svoboda. Mr Turin was then coerced into acknowledging in writing that he had been warned about the consequences of his "participation in mass actions" before being released.

2205. It was alleged that the detention and harassment of Anton Pavlovich Turin may be directly related to his activities in defense of human rights in the Russian Federation, in particular through his exercise of the right to freedom of assembly and freedom of expression. Following these reports, serious concern was expressed for the physical and psychological integrity of Mr Turin. Further concern was expressed for measures which may seek to curtail the right to freedom of assembly and freedom of expression in the country.

### **Response from the Government**

2206. In a letter dated 4 September 2008, the Government responded to the communication sent on 2 July 2008. The Government reported that in accordance with article 5 of the Federal Act No. 114-FZ of 25 July 2002 on measures to counter extremist

activities, in February 2008 preventive measures were carried out in Samara with a view to identifying members of informal youth associations with extremist tendencies.

2207. In the course of the aforementioned measures it was established that Anton Pavlovich Tyurin, a correspondent for the non-governmental organization Samara Human Rights Information Agency “Svoboda”, took an active part in unauthorized actions of the National Bolshevik Party, the activities of which have been prohibited in the Russian Federation; the party itself has been declared extremist.

2208. On 14 February 2008, officers of the Department for Combating Organized Crime attached to the Central Internal Affairs Administration for Samara province came to Mr. Tyurin’s apartment in order to hold a preventive talk with him. They showed Mr. Tyurin their service identification cards and suggested that he go with them to the Department for Combating Organized Crime attached to the Central Internal Affairs Administration for Samara province.

2209. Mr. Tyurin voluntarily went to the Department for Combating Organized Crime attached to the Central Internal Affairs Administration for Samara province, where a preventive talk was held with him. Mr. Tyurin was warned that, if he took part in unlawful actions, rallies, demonstrations or picketing, he might be arrested for an administrative offence. Mr. Tyurin’s personal affairs were not examined and were not confiscated. The members of the Department for Combating Organized Crime did not exert any psychological or physical pressure on him. After the talk, Mr. Tyurin left the building of the Department for Combating Organized Crime.

2210. It subsequently became known that provocative information concerning officers of the Department for Combating Organized Crime had been placed on the information resource [www.svobodanews.ru](http://www.svobodanews.ru).

2211. On 17 April 2008, the Sovetsky interdistrict investigative department of the investigative administration of the investigative committee attached to the office of the Procurator-General for Samara province received a communication from Mr. A.V. Loshmankin, the founder of the non governmental organization Samara Human Rights Information Agency “Svoboda”, concerning the unlawful actions of officers of the Department for Combating Organized Crime attached to the Central Internal Affairs Administration of the Ministry of Internal Affairs of the Russian Federation for Samara province, who had arrested Mr. Tyurin and exerted physical and psychological pressure on him.

2212. In the course of the investigation conducted pursuant to article 144 (Procedure for investigating reports of offences) and article 145 (Decisions to be taken on the basis of the investigation of the report of an offence) of the Code of Criminal Procedure of the Russian Federation, the information concerning the unlawful detention of Mr. Tyurin and the use of force against him by officers of the Department for Combating Organized Crime attached to the Central Internal Affairs Administration of the Ministry of Internal Affairs of the Russian Federation for Samara province was not confirmed.

2213. A critical attitude must be taken to Mr. Tyurin's claim that he suffered physical injury as a result of the use of force against him by officers of the Department for Combating Organized Crime, since Mr. Tyurin's allegations were not confirmed during the investigation that was conducted.

2214. In light of the aforementioned circumstances, the fact that Mr. Tyurin was brought to the Department for Combating Organized Crime attached to the Central Internal Affairs Administration for Samara province and that a talk was held with him cannot be linked with his human rights activities.

2215. On 30 July 2008, on the basis of the results of the investigation by the Sovetsky interdistrict investigative department of the investigative administration of the investigative committee attached to the Office of the Procurator-General for Samara province, the decision was taken not to institute criminal proceedings against the officers of the Department for Combating Organized Crime attached to the Central Internal Affairs Administration for Samara province in accordance with article 24, paragraph 1 (2), of the Criminal Code of the Russian Federation, since their actions did not reveal any evidence of an offence contrary to article 286 (Exceeding of official authority), paragraph 3 (a), or to article 127 (Unlawful deprivation of liberty), paragraph 1, of the Criminal Code of the Russian Federation.

2216. The Samara province procurator's office reviewed the legality of the aforementioned procedural decision on several occasions. The Office of the Procurator-General of the Russian Federation is currently verifying the legality and justification of the decision.

### **Letter of allegations**

2217. On 2 July 2008, the Special Representative sent a letter of allegations to the government concerning Mr **Shakhman Akbulatov**, Ms **Zarema Mukusheva** and Ms **Milana Bakhaeva**, all members of the human rights organisation Memorial, and their driver, Mr Yaraghi Gayrbekov concerning events which took place in the Urus-Martan region of the Chechen Republic. Several communications concerning members of the organization Memorial were sent by the former Special Representative of the Secretary General on the situation of human rights defenders since 2002 (see E/CN.4//2003/104/Add.1, paras. 434-451, E/CN.4/2004/94/Add.3 paras. 376, 378, 381, 382, 384 and 387, E/CN.4/2005/101/Add.1 paras. 445 and 460, E/CN.4/2006/95/Add.1 para. 446 and A/HRC/4/37/Add.1 paras. 572-573). Most recently a joint letter of allegation was sent by the then Special Representative of the Secretary General on the situation of human rights defenders, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture on 29 November 2007. A response from the Government informing of the preliminary steps of the investigations into the allegations was received and an interest in being informed on the outcomes of the investigations being carried out

by the Ministry of Internal Affairs and the Office of the Procurator-General of the Russian Federation was reiterated.

2218. According to information received, on 17 June 2008 the aforementioned four individuals were filming a building belonging to the Solnidchny State agricultural group, when several plainclothes men approached them. The building had previously been the local police department where several persons had reportedly been arbitrarily detained, sometimes incommunicado. The men, who introduced themselves as members of the “service”, seized the identity documents of the four and drove them to the Regional Department of Interior Affairs (ROVD), where policemen accused them of collecting information to pass on to separatist websites and ones which are critical of the party in power.

2219. The policemen also stated that due to their vehicle licence-plate, Mr. Akbulatov, Ms. Mukusheva, Ms. Bakhaeva and Mr. Gayrbekov were from Ingushetia, concluding that they had come from the Nazran office of Memorial, which has reported on cases of torture and assassinations in police stations, and that they were intending to display what they were filming on the Internet. The four were also accused of working for and passing information to Islamist elements.

2220. Mr. Akbulatov was then taken to a separate room where the contents of his bag were checked, despite his protests that the check was illegal. The vehicle the group had been travelling in was also searched. The policemen then threatened and insulted Mr. Akbulatov, with one allegedly suggesting that all four be shot. The threat of execution was repeated in another room. Mr Akbulatov and Ms Mukusheva were photographed and forced to sign a written statement describing their activity that day, and their film material was destroyed. The lawyer representing the four was only allowed access to his clients after half an hour. They were subsequently released at approximately 7.30 pm that evening.

2221. Concern was expressed that the intimidation and detention of the four was directly related to their activities in defense of human rights, in particular in their capacity as members of the organization Memorial. Further concern was expressed for their physical and psychological integrity and that their detention and treatment while in custody formed part of a campaign to curtail the freedom of movement and the activities of human rights defenders in the region.

### **Response from the Government**

2222. In a letter dated 7 October 2008, the Government responded to the communication sent on 2 July 2008. At the time of the finalization of the present report, a translation of the reply was not yet available.

### **Urgent appeal**

2223. On 29 July 2008, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture sent an urgent appeal to the Government concerning Mr **Zurab Tsetchoev**, member of the “Mashr” human rights group, an organization which provides support for relatives of people who have suffered involuntary disappearances and ill-treatment at the hands of unidentified security servicemen in Ingushetia.

2224. According to information received, on 25 July 2008, at approximately 6 a.m., several vehicles, including three “Gazelle” minibuses and three vehicles for armed troops, stopped before Mr Zurab Tsetchoev’s house. Around 50 security officers approached the gate. When Mr Tsetchoev opened the door, they held him at gunpoint and forced him to lay face-down on the ground. Some servicemen went into the house without showing any identification or search warrant. They searched the house, confiscated one computer and two mobile phones and drove Mr Zurab Tsetchoev away in one of the minibuses.

2225. Subsequently, Mr Zurab Tsetchoev was interrogated for about five hours. He was accused of sending lists containing the personal addresses of law enforcers to the website Ingushetiya Ru. When he denied sending these lists, he was beaten and asked to give the names of who had sent them. At approximately 12.10 p.m., Mr Zurab Tsetchoev was left on a road in Ingushetia. He was picked up by colleagues and taken to hospital where he was treated for a broken leg, as well as bruising to both of his kidneys and both of his arms.

2226. During Mr Zurab Tsetchoev’s detention, his whereabouts were not known. The Ministry of Internal Affairs and the Prosecutor’s Office denied any knowledge about Mr Zurab Tsetchoev’s detention or the grounds on which he had been detained.

2227. Concern was expressed that the detention and ill-treatment of Mr Zurab Tsetchoev may have been directly related to his legitimate activities in the defence of human rights, in particular his work to provide support for victims of torture at the hands of security servicemen. In view of the events described above, concern was also expressed for the physical and psychological integrity of Mr Zurab Tsetchoev.

### **Response from the Government**

2228. In a letter dated 7 October 2008, the Government responded to the communication sent on 29 July 2008. At the time of the finalization of the present report, a translation of the reply was not yet available.

### **Urgent appeal**

2229. On 5 August 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government regarding Mr **Sergey Cherepovskiy**, a human rights lawyer. Mr Sergey Cherepovskiy is the lawyer of Mr **Valery Bychkov**, chairperson of the Penza branch of the All-Russia



Public Movement “For Human Rights”, and has defended him in a case which in April 2004 allegedly saw Mr Valery Bychkov banned from sending written inquiries to the Prosecutor General, the Ministry of the Interior and the President after he had begun in 2003 to write complaints about corruption among officials in the Penza region. Mr Valery Bychkov was made to apologize for his actions and forfeit all the information he had collected on the matter. For continuing to pursue the case he has reportedly been fined, detained, and made to present himself at various judicial proceedings despite being in a very fragile physical state because of illness. He has now been released although he is not allowed to leave the city of Penza.

2230. According to information received, on 22 July 2008, Mr Sergey Cherepovskiy was detained immediately after a court ruled in favor of releasing Mr Valery Bychkov on the condition that he remained in Penza. The charges against Mr Sergey Cherepovskiy carried up to five years’ imprisonment. He was charged with “use of violence against a representative of the authorities” under part 1 of Article 318 of the Russian Criminal Code. The charges came following an argument between Mr Sergey Cherepovskiy and a court officer about whether taking video footage of the legal proceedings was permitted. Video footage had been banned during the session and the trial was declared closed to the public without any court ruling. The video footage taken by Mr Sergey Cherepovskiy reportedly documented guards dragging the chronically-ill Mr Valery Bychkov down the stairs. It was later shown on the news by local broadcasters. Mr Sergey Cherepovskiy was taken to the prosecutor’s office in Penza Oktyabrsky district before being moved to the investigatory prison.

2231. Concern was expressed that the detention of Mr Sergey Cherepovskiy may have been directly related to his activities in the defense of human rights, in particular his work to defend Mr Valery Bychkov. Further concern was expressed for the physical and psychological integrity of Mr Sergey Cherepovskiy while in detention.

### **Response from the Government**

2232. In a letter dated 17 October 2008, the Government responded to the communication of 5 August 2008. At the time of the finalization of the present report, a translation of the reply was not yet available.

### **Letter of allegations**

2233. On 13 August 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegations to the Government concerning Mr **Ilyas Timishev**, a human rights lawyer then working to defend the rights of Chechen police officers who have not been paid.

2234. According to information received, on 15 July 2008, Mr Ilyas Timishev and those who had appealed about salaries not being paid and court rulings not being implemented were summoned to the Chechen Prosecutor’s office. They did not reject the Prosecutor’s request for them to reach an agreement with the State on the matter in question, and they

affirmed their need to assess damages and interest for the period of up to three years during which court rulings had not been implemented.

2235. That night, Mr Yunus Yakubovich Timishev and Mr Aslambek Khizirovich Timishev, Mr Ilyas Timishev's brother and nephew respectively, were detained and their home was searched. A gun was allegedly found during the search. Mr Aslambek Khizirovich Timishev was reportedly beaten up while being interrogated and lost a tooth after being kicked by a police officer. On 16 July 2008, Mr Arbi Kharonovich Timishev, also a nephew of Mr Ilyas Timishev, was detained and was reportedly beaten up in detention while being interrogated by police who asked him about where Mr Ilyas Timishev was.

2236. All three members of Mr Ilyas Timishev's family were released on 16 July 2008. However, Mr Aslambek Khizirovich Timishev and Mr Arbi Kharonovich Timishev were ordered to stay in the village where they live. No criminal case was opened against the members of Mr Ilyas Timishev's family, but they were worried that they might be accused of having links to rebel groups.

2237. Concern was expressed that the detention of members of Mr Ilyas Timishev's family and the restrictions on their movement might have been directly related to Mr Ilyas Timishev's legitimate and peaceful work in the defense of human rights, in particular his work to ensure the payment of Chechen police officers. Concern was also expressed for the physical and psychological integrity of Mr Ilyas Timishev and his family.

### **Response from the Government**

2238. In a letter dated 7 October 2008, the Government responded to the communication of 13 August 2008. At the time of the finalization of the present report, a translation of the reply was not yet available.

### **Urgent appeal**

2239. On 15 August 2008, the Special rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government regarding Ms **Gulnara Rustamova**, the representative of Mothers of Dagestan for Human Rights, an NGO based in Makhachkali, Republic of Dagestan, Russian Federation. The NGO deals with cases of young men who have disappeared since 2007.

2240. According to the information received, on 23 May 2008, in an interview published in the weekly 'Novoe Delo', Ms Rustamova and other members of the NGO Mothers of Dagestan were accused by an anonymous officer of the Investigative Committee of the General Prosecutor of the Southern Federal District of Dagestan of supporting fighters living in the forest.

2241. On 6 June 2008 the daily 'Chernovik' published the proceedings of a meeting which was chaired by the President of Dagestan, Mr Mukhy Aliev. According to the newspaper, when the President asked 'What does Rustamova need?', someone from among the participants replied: 'a bullet in the head'. The reply was allegedly attributed to Mr Adilgirey Magomedtagirov, the Minister of Internal Affairs of Dagestan.

2242. On 4 July 2008, in yet another article in the weekly 'Novoe Delo', Ms Rustamova was accused of cooperating directly with an insurgent killed in Makhachkaly.

2243. Concern was expressed that the harassment of, the threats against, and the slander campaign against Ms Gulnara Rustamova and members of her family may be directly related to her activities in the defence of human rights. Further concern was expressed regarding the physical and psychological integrity of Ms Rustamova.

### **Response from the Government**

2244. In a letter dated 31 December 2008, the Government responded to the communication of 15 August 2008. At the time of the finalization of the present report, a translation of the reply was not yet available.

### **Urgent appeal**

2245. On 15 August 2008, the Special Rapporteur sent an urgent appeal concerning Mr **Stanislav Dmitrievsky**, a consultant with the *Nizhny Novgorod Foundation to Support Tolerance*, and former chairperson of the *Russian-Chechen Friendship Society*.

2246. According to the information received, on 14 August 2008 in the early morning hours, a brick was thrown at the window of Mr Dmitrievsky's first-floor apartment. As a result the window was broken. At the same time, the front door to the apartment and the façade of the house were painted with insulting slogans. Two unidentified individuals were seen in the area at the time of the events.

2247. Concern was expressed that the attack on the home of Mr Dmitrievsky may be solely connected to his peaceful activities in defence of human rights. Further concern was expressed regarding the physical and psychological integrity of Mr Dmitrievsky.

### **Response from the Government**

2248. In a letter dated 21 October 2008, the Government responded to the communication of 15 August 2008. At the time of the finalization of the present report, a translation of the reply was not yet available.

### **Letter of allegations**

2249. On 4 September 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and

expression and the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent a letter of allegations regarding Mr **Magomed Yevloyev**, a well known journalist and founder of the independent news website *ingushetiya.ru*. The website is known as the main non-governmental source of information in the Republic of Ingushetia, and reports on alleged governmental corruption and human rights abuses.

2250. According to information received, on 31 August 2008, at approximately 1.30 p.m., Mr Magomed Yevloyev was arrested as he disembarked from a plane at Nazran airport in Magas, Republic of Ingushetia. Mr Yevloyev was then escorted to a waiting police vehicle. A short time later, Mr Yevloyev sustained a gunshot wound to the head and was taken by police officers to hospital, where he died later that day.

2251. The Interior Ministry of Ingushetia stated that Mr. Yevloyev was killed “accidentally” while resisting arrest. An Investigative Committee spokesman in Moscow also issued a statement which indicated that Mr Yevloyev was detained by police and died in an “incident” while being taken to police headquarters for interrogation. The office of the Prosecutor General of the Russian Federation has reportedly indicated that it will investigate the incident.

2252. Prior to his death, Mr Yevloyev had been a vocal critic of the government, and particularly of the Regional President of Ingushetia, Murat Zyazikov. Mr Zyazikov had reportedly threatened to shut down the website *ingushetiya.ru* on a number of occasions. In early August 2008, the Moscow City Court upheld a district court's decision to shut down the website for allegedly “carrying extremist content”. Charges of “inciting ethnic hatred” were also being pursued by prosecutors.

2253. In October 2007, Mr Yevloyev had accused the President of the Republic of Ingushetia, Mr. Zyazikov, on the *ingushetiya.ru* website of hiring hit-men to kill him. His family had also received threats from Ingush politicians. The current editor of *ingushetiya.ru*, Ms Roza Malsagova, recently left the Russian Federation and has sought political asylum in France, alleging severe pressure on her by authorities, including through a number of criminal cases brought against her, in connection with her editing of the website.

2254. While the reported investigation by the Public Prosecutor into the killing of Mr Magomed Yevloyev was welcomed, concern was expressed that the aforementioned events may represent a direct attempt to prevent independent reporting in Russia. This concern was reinforced by the fact that the killing of Mr Yevloyev is one in a long series of murders of journalists in the Russian Federation, as reflected inter alia in the communication to the Government by the Special Rapporteur on summary executions of 30 October 2006.

### **Response from the Government**

2255. In a letter dated 29 September 2008, the Government responded to the communication sent on 4 September 2008. The Government informed that on 31 August

2008, officers of the Ministry of Internal Affairs of the Republic of Ingushetia, acting on the instructions of the investigator of the Nazran internal affairs office to bring the witness M.Y. Evloev in for questioning, arrested Mr. Evloev at Nazran airport. It was necessary to take Mr. Evloev into custody by force because he had ignored the summons issued by the investigator.

2256. At approximately 2 p.m., in a motor vehicle on his way to the Nazran internal affairs office, Mr. Evloev received a bullet wound to the head and, despite the medical treatment provided by one of the Republic's hospitals, died. The militia officer who fired the shot testified that he had accidentally pulled the trigger of his pistol. He was looking out of the window of the vehicle, since he believed that the vehicle might be attacked. He held the pistol cocked, ready to fire. Suddenly he heard the other militia officer cry out and he turned in his direction. At this time, Mr. Evloev moved forward and his head came in contact with the pistol. It was at that moment that the pistol went off.

2257. Proceedings were instituted under article 109, paragraph 2 (negligent homicide owing to the improper discharge by a person of his professional duties), of the Criminal Code of the Russian Federation. The final classification of the offence will be provided at the concluding stage, once all the facts of the case have been investigated.

2258. The investigators are also considering several other possibilities, including the possibility that Mr. Evloev's death was connected with his public activities and that it occurred as a result of sudden personal animosity. The investigation is being conducted by the central investigative department of the investigative committee attached to the Office of the Procurator of the Russian Federation for the Southern Federal District.

2259. Mr. Evloev was a staunch critic of M.M. Zyazikov, President of the Republic of Ingushetia, and in general of the federal centre policy being conducted in the Republic. He openly propagated his views on the Internet site [www.ingushetia.ru](http://www.ingushetia.ru), which he owned. The Internet resource made active use of various Russian and foreign opposition - and often openly extremist - organizations.

2260. In connection with the repeated publication of extremist materials on the aforementioned website, on 6 June 2008 the Kuntsevo district court of Moscow decided to grant the request made by the procurator of Ingushetia for the closure of the website.

2261. On 12 August 2008, the Moscow city court upheld the decision of the Kuntsevo district court of Moscow to close the website [www.ingushetia.ru](http://www.ingushetia.ru).

2262. In August 2008, the Office of the Procurator for the Republic of Ingushetia instituted criminal proceedings against Mr. Evloev in connection with an explosion near the home of Zalimkhan Khautiev, the director of the monitoring department of the administration of the President of Ingushetia. It was precisely for the purpose of the initial inquiry into this criminal case that, on 31 August 2008, Mr. Evloev was being escorted by militia officers from the airport to the Nazran internal affairs office.

### **Urgent appeal**

2263. On 21 November 2008, the Special Rapporteur, together with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding Ms **Carine Clément**, Mr **Mikhail Beketov** and Mr **Sergei Fedotov**. Ms Carine Clément is a Moscow-based French sociologist, and the director of the Institute of Collective Action. Ms Clément is very active on housing rights and trade unions. Mr Mikhail Beketov is a journalist and editor-in-chief of the *Kimkinskaia Pravda* newspaper, and is involved in the protection of environmental rights. Mr Serguei Fedotov is the leader of a group supporting disenfranchised small landowners in the suburbs of Moscow.

2264. According to the information received, on 13 November 2008 Ms Carine Clément was attacked near the Bilingua Club in downtown Moscow, on her way to a roundtable. Two unidentified men ran up to her from behind, and stabbed her in the thigh with a syringe containing an unidentified substance. On 12 November 2008, another assailant attacked Mrs Carine Clément near her house. He insulted her and spat on her. Mrs Clément filed a complaint with the police and went to the hospital for medical treatment.

2265. On 13 November 2008, Mr Mikhail Beketov was found by a neighbour in his courtyard of his home in the Khimki district of Moscow. Mr Beketov was severely beaten and was unconscious when he was taken to the hospital. He sustained a head injury, multiple broken bones, and other serious injuries.

2266. On 13 November 2008, Mr Sergei Fedotov was attacked by two young men with baseball bats and pepper spray.

2267. Concern was expressed that the attacks on these human rights defenders working on economic and social rights, including on the right to adequate housing, in the Russian Federation may form part of a broader intimidation campaign. Further concern was expressed that the assaults on these defenders may be solely connected to their activities in the defence of human rights.

### **Urgent appeal**

2268. On 9 December 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, sent an urgent appeal to the Government regarding the offices of the **Memorial Research Centre**, a non-governmental organization working on alleged disappearances in Saint Petersburg.

2269. According to the information received, on 4 December 2008, a group of seven unidentified men, some of them masked and armed with batons, broke into the offices of

the Memorial Research Centre in Saint Petersburg. The group allegedly included two police officers, two members of the special reaction unit (SOBR), and an investigator assigned by the Saint Petersburg Prosecutor's Office. The men produced a search warrant from the Prosecutor's Office of Saint Petersburg and showed it to the three staff members who were already present in the offices. The search warrant was issued in connection with an investigation against the newspaper "New Petersburg", regarding an article titled "Here is the new candidate". The search warrant was allegedly based on Article 282 of the Criminal Code ("Incitement to racial and religious hatred"). The Court of St Petersburg ruled earlier, on 21 October 2008, that the article in question did not contain extremist content.

2270. The premises of the Memorial Research Centre were blocked during the entire day of 4 December 2008, and the telephone lines were cut. The lawyer of the Memorial Research Center was prevented from being present during the search of the office. As a result of the search, the digital archives and other documents were seized and removed from the office, including hard drives and USB keys, computer processors and certain documents. Among the materials seized were 20 years of archives on Soviet Gulags and repression.

2271. According to its staff members, the Memorial Research Center does not have any connection either with the newspaper "New Petersburg" or with the article in question.

2272. Concern was expressed that the break-in and search of the offices of the Memorial Research Centre-Saint Petersburg, as well as the confiscation of digital data and archives, may have been solely in connection with the human rights activities of the non-governmental organization. Further concern was expressed with regard to the potential loss of data and its misuse.

### **Response from the Government**

2273. In a letter dated 21 January 2009, the Government responded to the communication of 9 December 2008. At the time of the finalization of the report, a translation of the reply was not yet available.

### **Observations**

2274. The Special Rapporteur wishes to thank the Government of the Russian Federation for the detailed responses provided to all but one of her communications.

2275. The Special Rapporteur reiterates her concerns regarding the situation of human rights defenders in the Russian Federation, particularly journalists who seek to document human rights violations and lawyers working in defence of human rights. Both groups come under increasing pressure due to threats and intimidating behavior. The recent killings of prominent journalists and lawyers acting on human rights issues further add to the climate of intimidation and self-censorship of human rights defenders and narrows the space for human rights activities.

2276. She shares serious concern of her predecessor regarding registration laws and regulations which may have as their sole objective the stifling of criticism and the curbing of civil society movements in the Russian Federation and urges the Government to be transparent in its motives in the monitoring, investigation and closing down of non-governmental organizations,

## Rwanda

### Lettre d'allégations

2277. Le 10 janvier 2008, l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur la situation des droits de l'homme et des libertés fondamentales des populations autochtones, a envoyé une lettre d'allégations concernant des supposés actes de menace envers des **représentants autochtones Batwa du Rwanda et du Burundi**, lors de la dernière session de l'Assemblée Parlementaire Paritaire Union Européenne et Afrique-Caraïbes-Pacifique (EU-CPA) au pays. Selon les informations reçues :

2278. La 14ème session de l'Assemblée Parlementaire Paritaire EU-CPA s'est tenue du 14 au 22 novembre 2007 à Kigali, à l'hôtel Serena. Lors de la réunion, un événement parallèle aurait été prévu le 21 novembre, à 14h, entre des membres de l'Assemblée Parlementaire Paritaire et des représentants autochtones Batwa du Rwanda et du Burundi, afin d'aborder la situation de ces populations.

2279. Les membres de l'Assemblée Parlementaire Paritaire présents lors de cette réunion auraient été au nombre de cinq, dont Messieurs Glenys Kinnok et Michael Gahler, membres du Parlement Européen et respectivement Co-président et Co-vice-président de l'Assemblée Parlementaire Paritaire. Les représentants Batwa auraient été au nombre de trois, Messieurs Léonard Habimana et Dominique Ntagisigaye, de l'association du Burundi « Unissons-nous pour la Promotion des Batwa » (UNIPROBA), ainsi que Callixte Hategikimana, membre de l'organisation « Communauté des Potiers Rwandais » (COPOROW) du Rwanda. COPOROW était anciennement connue sous le nom provisoire de « Communauté des Autochtones du Rwanda » (CAURWA), nom interdit en 2005 pour mentionner le mot « autochtone », supposément en violation de la Constitution et des lois rwandaises.

2280. Le 21 novembre 2007, quelques minutes après le début de la réunion, des membres du Sénat rwandais, dont le vice-président, auraient fait irruption dans la salle de réunion. Selon les allégations, ils auraient protesté auprès de Monsieur Glenys Kinnok et de Monsieur Michael Gahler, estimant que cet événement ne pouvait pas avoir lieu, au motif que les organisations Batwa seraient illégales en vertu de la Constitution du Rwanda qui promeut l'unité nationale et interdit de parler d'ethnicité.



2281. Selon les allégations, Monsieur Michael Gahler aurait alors décidé d'organiser un entretien personnel dans une salle voisine de l'hôtel Serena avec les trois représentants Batwa, sans la présence des parlementaires. Le vice-président du Sénat aurait également fait irruption dans la salle de cet entretien privé, en insultant, selon les informations, Monsieur Gahler, pour son origine belge.

2282. Selon les informations, alors que les membres de l'Assemblée Parlementaire Paritaire quittaient les lieux, le vice-président du sénat rwandais aurait informé les représentants Batwa, burundais et rwandais, qu'ils seraient emprisonnés s'ils continuaient leurs contacts avec des membres de l'Assemblée Parlementaire Paritaire. Le vice-président du sénat aurait fait appel à un membre de la police de renseignement, Monsieur Damacène, afin de surveiller les représentants Batwa tout l'après-midi afin de s'assurer qu'ils ne rentrent plus en contact avec les membres de l'Assemblée Parlementaire Paritaire. Le représentant Batwa rwandais, par crainte, serait rentré chez lui, à Kigali. Les représentants burundais, alors qu'ils sortaient d'un cyber café de la ville de Kigali ce mercredi 21 novembre à 17h, auraient trouvé des policiers en armes et seraient ensuite, par crainte, restés à leur hôtel à Kigali jusqu'à leur départ le lendemain matin, jeudi 22 novembre, pour Bujumbura, Burundi.

2283. Le Rapporteur Spécial et la Représentante Spéciale craignent que ces incidents puissent avoir pour but d'empêcher les organisations Batwa de promouvoir les droits de cette population en tant que population autochtone.

### **Observations**

2284. La Rapporteuse spéciale regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 10 janvier 2008 et exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celle-ci.

## **Saint Vincent and the Grenadines**

### **Urgent appeal**

2285. On 13 February 2008, the then Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government concerning Ms **Nicole Sylvester**, President of the St Vincent and the Grenadines Human Rights Association (SVGHRA), and the President of the St Vincent and the Grenadines Bar Association.

2286. According to information received, on 25 January 2008, Ms Nicole Sylvester received an anonymous telephone call at her home. The caller reportedly warned her to cease working on a particular case and reminded her that she had a family. On 2 February, Ms Sylvester's vehicle was followed by a white jeep, reportedly of the type used by the police's Special Services Unit. On 4 February, she was approached near her office by a police officer who advised her to be careful as she was being followed.

According to reports, Ms Kay Bacchus-Browne, a lawyer and member of the SVGHRA, was also followed by a white jeep on the morning of 4 February.

2287. Ms Sylvester and other lawyers from the SVGHRA had been representing a woman police officer who had alleged that she was raped by the Prime Minister of St Vincent and the Grenadines on 3 January 2008. The police reportedly refused to file her complaint and advised her to leave the country for a while. Her lawyers filed two private criminal complaints (for indecent assault and unlawful sexual intercourse without consent) at the Magistrate's Court on 31 January. The Director of Public Prosecutions reportedly halted the investigation, as permitted under the country's Constitution, claiming that there was not sufficient evidence for the case to go to court.

2288. Concern was expressed that the intimidation of Ms Sylvester may be directly related to her activities in defence of human rights, particularly her legal representation in the aforementioned case.

### **Response from the Government**

2289. In a letter dated 5 March 2008, the Government responded to the above urgent appeal. The letter stated that the allegations summarized in the letter of 13 February 2008 were false. The Commissioner of Police stated unequivocally that no vehicles were assigned to follow Ms. Sylvester or Ms. Bacchus-Browne. Police investigations revealed no evidence to suggest that either Ms. Sylvester or Ms. Bacchus-Browne were otherwise intimidated. The purported "anonymous telephone call" to Ms. Sylvester allegedly occurred prior to her notifying the Royal St. Vincent and the Grenadines Police Force (RSVGPF) that she was involved in the relevant case. To imply that the Police or the Director of Public Prosecutions (DPP) acted improperly in the handling of the accuser's allegations against the Hon. Prime Minister was also false, given the dearth of corroborating evidence; considerable exculpatory evidence; and the accuser's own refusal to provide a statement to the Police.

2290. A number of investigations had taken place, a medical examination had been performed on the accuser, and two judicial proceedings were ongoing, according to the letter. The RSVGPF investigated the accuser's allegations even though the accuser herself requested for the RSVGPF to refrain from so doing. In the course of the RSVGPF's investigations, the accuser refused to provide a statement to the police. All of the statements, medical evidence and other circumstantial evidence pointed to the innocence of the accused. In the absence of incriminating evidence the RSVGPF declined to arrest the accused. Upon the accuser's filing of Private Criminal Complaints, the DPP attempted his own investigation. Again, the accuser refused to submit a statement, and again the DPP could not uncover sufficient evidence upon which to base a prosecution. The DPP thereby exercised his Constitutional power to discontinue the criminal proceedings against the accused. The accuser was examined by a medical doctor. The medical examination revealed "no abrasions, lacerations or other signs of injury to the perineum," and "no injury to any other parts of the body." No medical evidence was produced to corroborate the accuser's allegations. Attorneys for the accuser, including

Ms. Sylvester, sought judicial review of the DPP's decision to discontinue the criminal proceedings against the Hon. Prime Minister. A decision on these judicial proceedings was expected on or around 11 March 2008. Attorneys for the accuser, including Ms. Sylvester, have instituted civil proceedings against the Hon. Prime Minister. The ongoing civil litigation sought monetary damages for the alleged assault.

2291. As a result of the investigations undertaken by the RSVGPF and the DPP, private criminal prosecutions initiated by lawyers for the accuser were discontinued due to an insufficiency of incriminating evidence. Since no convictions or judicial findings have been made to date, no one has been punished, criminally or otherwise. Lawyers for the accuser have sought judicial review of the DPP's decision to discontinue the private criminal proceedings. Civil litigation against the Hon. Prime Minister was also ongoing, according to the letter.

### **Observations**

2292. The Special Rapporteur thanks the Government for its response.

## **Saudi Arabia**

### **Urgent appeal**

2293. On 27 May 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the independence of judges and lawyers, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the question of torture, sent an urgent appeal concerning the reported arrest and detention of Mr **Matrouk al-Faleh**, an academic and human rights defender in Saudi Arabia. Mr Matrouk al-Faleh was the subject of three previous communications sent by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders on 30 May 2005; by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on torture and the then Special Representative of the Secretary-General on the situation of human rights defenders on 26 April 2004; and by the Chairperson-Rapporteur of the Working Group on arbitrary detention, the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on torture and the then Special Representative of the Secretary-General on human rights defenders on 19 March 2004. While the receipt of the replies of the Government dated 18 August 2005 and 18 December 2004 was acknowledged, the mandate holders wished to seek clarification on new information received.

2294. According to the new information received, on 19 May 2008, officers from the secret police arrested Mr Matrouk al-Faleh on the premises of King Saud University in

Riyadh, where he teaches. Whereas his family was informed of his arrest later that same day, Mr Matrouk al-Faleh has not been given access to a lawyer or allowed any visit since then. Mr Matrouk al-Faleh's family has not been informed of the reasons for his detention or what the charges are, and his whereabouts are currently unknown.

2295. Two days before his arrest, on 17 May 2008, Mr Matrouk al-Faleh had publicly criticized the harsh prison conditions in the overcrowded Buraida General Prison, where two other Saudi human rights defenders, Mr Abdullah al-Hamid and Mr 'Isa al-Hamid, are serving prison sentences. Mr Abdullah al-Hamid and Mr 'Isa al-Hamid were found guilty of "incitement to protest", charges that were brought against them after they had supported and taken part in a reportedly peaceful demonstration outside the Buraida General Prison. The demonstrators called for their relatives' rights to being promptly informed about the charges brought against them and to a fair trial to be respected or, alternatively, to release them.

2296. Mr Al-Faleh's statement criticized the restrictive procedures in relation to visits, the unhygienic conditions, the overcrowding, and the bad quality of medical services in the prison. His statement was later reproduced on <http://www.member-alhewar.info>, a Saudi website. According to the information received, on 19 May 2008, this site was blocked for persons in Saudi Arabia.

2297. Mr Matrouk al-Faleh had previously been arrested in March 2004 after calling for political reform, and was sentenced to six years' imprisonment in May 2005 on charges that included "sowing dissent and disobeying the ruler." He was released after having been granted a royal pardon by His Majesty King Abdullah on 8 August 2005. Since his release he has reportedly not been permitted to travel abroad.

2298. Concerns were expressed that the arrest and detention of Mr Matrouk al-Faleh might be solely connected to his reportedly peaceful activities in defending human rights and exercise of his right to freedom of opinion and expression. In view of the alleged incommunicado detention of Mr Matrouk al-Faleh at an unknown place of detention, further concerns were expressed that he might be at risk of ill-treatment.

### **Letter of allegations**

2299. On 13 June 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegations concerning Mr **Abdul Rahman Al Lahem**, a human rights lawyer who has been active in defending the rights of women.

2300. According to information received, since 2004, a travel ban has been imposed on Mr Abdul Rahman Al Lahem, banning him from foreign travel.

2301. Mr Abdul Rahman Al Lahem recently received the International Human Rights Lawyer Award from the American Bar Association, but due to the travel ban he was unable to collect the award in person.

2302. Mr Abdul Rahman Al Lahem has allegedly attempted to challenge the travel ban in an administrative court, but the case was refused by the court.

2303. In November 2007, Mr Abdul Rahman Al Lahem's lawyer's license was revoked because he objected to the sentencing of a nineteen-year old female victim of rape. He has also previously been imprisoned for publicly speaking out against human rights abuses in Saudi Arabia as well as for defending three pro-democracy activists.

2304. Concern was expressed that the imposition of the travel ban on Mr Abdul Rahman Al Lahem may directly be related to his peaceful professional activities in defending human rights and in particular women's rights. Concern was further expressed that the travel ban may be imposed to prevent the views of Mr Abdul Rahman Al Lahem from reaching a foreign audience.

### **Observations**

2305. The Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted a reply to her communication of 27 May 2008 and 13 June 2008. She considers response to her communications as an important part of the cooperation of Governments with her mandate, and urges the Government to respond to the concerns raised by her.

2306. The Special Rapporteur urges the Government to ensure there is a clear legal basis which respects international norms and standards in any case of arrest and detention of a human rights defender and that while in custody, detainees suffer no ill-treatment and have regular access to independent legal representation and contact with family.

2307. Concerning the case of Mr Matrouk al-Faleh, the Special Rapporteur urges the Government to provide information on the legal basis of his detention, since according to information available to her, Mr al-Faleh has not yet been charged with a crime, contrary to the Criminal Procedure Code of 2002 and was denied to see his lawyers.

## **Serbia**

### **Urgent appeal**

2308. On 20 February 2008, the then Special Representative sent an urgent appeal to the Government concerning insults and threats addressed against **human rights defenders** in Serbia, especially those dealing with the recent past, including war crimes and minority rights.

2309. These insults and threats had been brought to the mandate-holder's attention in the context of a number of incidents reported after 17 February 2008. These incidents involved i.a. violent acts against some embassies, businesses, journalists, persons belonging to national minorities and others, as well as hate speech during demonstrations and in the media.

2310. The Special Representative was concerned that the current situation may contribute to the hostile environment surrounding human rights defenders, which she had noted during her visit to Serbia in September 2007. In this regard, she referred to her press statement at the end of my visit, in which she expressed concern at the situation of a core group of human rights NGOs and prominent defenders, mostly women, who are under constant attack, mainly in the media.

2311. Of particular concern is the situation of Ms Natasa Kandic, the Executive Director of the Humanitarian Law Centre who had reportedly been portrayed as a traitor in some daily newspapers (Vecernje Novosti in its issue dated 18 February 2008 and Kurir in its issue of 19 February) and on a programme of Radio Fokus, in which verbal attacks against her were reportedly made.

2312. In addition, the mandate-holder had been informed that a number of human rights organizations, including YUCOM and Youth Initiative for Human Rights, had significantly limited their activities as they fear for their personal safety. Some of these organizations have witnessed a group of people trying to locate their office premises. Reportedly this prompted them to remove signs indicating the location of their office. Finally, on 19 February, the premises of Forum NVO at Lingua Center in Kraljevo were reportedly stoned.

### **Response from the Government**

2313. In a letter dated 11 March 2008, the Government responded to the communications sent on 20 February 2008. The Government expressed its commitment to work closely with all relevant actors at the national and international level in order to address a wide range of human rights issues. The Government reported that PISG in Kosovo and Metohija declared independence of that southern Serbian Autonomous Province unilaterally, illegally and contrary to the UN Charter and Security Council resolution 1244. This act of unlawful secession caused a strong negative public reaction in Serbia. In order to express protest and disagreement, there were a number of peaceful rallies held throughout Serbia. Peaceful rallies were unfortunately misused by sporadic groups of hooligans in some parts of Serbia, including in Belgrade after the rally on 21 February 2008.

2314. The response of the authorities was prompt and adequate. The President and the Prime Minister both publicly condemned hooligan behavior and asked for the immediate stop of violence. The police arrested 192 persons on the same day and secured order and peace, as well as the personal integrity and property of citizens.

2315. The Government also informed that YUCOM and the Youth Initiative for Human Rights have neither addressed responsible authorities in Serbia requesting special protection, nor clarified a fear for their own safety. Regretfully, indications about broken windows at the premises of the non-governmental organization Lingva in Kraljevo on 19 February 2008 are accurate, and the police have started investigations in order to find the perpetrators.

2316. The Government also stressed that the authorities of the Republic of Serbia fully respect and protect the physical and mental integrity of Ms Natasa Kandic, the Executive Director of the Humanitarian Law Center, as a human rights defender. The reason for recent public reaction to Ms Kandic's activities lies in the fact that she was present at the session of the Assembly of the PISG of the Autonomous Province of Kosovo and Metohija on 17 February 2008, which unilaterally and illegally declared the independence of the southern Serbian Province of Kosovo and Metohija contrary to the UN Charter. In her statements to the media she spoke in favor of the independence of the Province. This provoked negative reaction on the part of the general public. In this regard the Government stated that allegations stated in the communication indicating that the daily Kurir of 19 February 2008, published that Ms Kandic is a traitor, are partially accurate since that article did not express the views of the editor. It referred to the opinion of some public personalities who have condemned Ms Kandic's appearance at the said session of the Assembly of the PISG:

2317. The Government also stated that respecting the freedom of opinion and expression and the freedom of the media, the authorities of the Republic of Serbia cannot and will not influence the editorial policy of any media or publicly expressed opinion. State authorities intervene only in case of criminal acts and charges brought before the courts. In accordance with Article 38 of the Law on Public Information of the Republic of Serbia, hate speech is forbidden.

### **Urgent appeal**

2318. On 27 October 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding the intimidation and harassment against Ms. **Sonja Biserko**, Chairperson of the *Helsinki Committee for Human Rights in Serbia (HCHRS)*.

2319. The HCHRS was the subject of an urgent appeal sent to the Government by the then Special Representative of the Secretary General on the situation of human rights defenders and the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 31 March 2004. The response from the Government was received on 25 May 2005.

2320. According to new information received, in 2005 and 2006, Ms. Sonja Biserko suffered repeated break-ins at her home and physical attacks. These acts of intimidation

were allegedly linked to a campaign which was launched by government officials and mainly targeted female leaders of Serbian human rights non-governmental organizations.

2321. The 2007 Helsinki Committee Report titled “Self-isolation – reality and goal” was published in May 2008. The report addressed alleged crimes against humanity during the 1990s in the Balkan region.

2322. On 12 September 2008, an article by Slobodan Antonic appeared in the newspaper “Pečat”. This article marked the start of a media campaign against Sonja Biserko, aiming to discredit her personally. Several websites and newspapers published Sonja Biserko’s home address. Articles and editorials in the newspapers “Pečat”, “Politika”, “Glas Javnosti” and on various websites contained further intimidations and personal attacks against Sonja Biserko.

2323. Since 22 September 2008, the HCHRS has received many threatening letters, some of which have included death threats aimed specifically at Ms. Sonja Biserko. On 30 September 2008, approximately 100 to 130 members of ultra right-wing organizations in Serbia such as Movement 1389 and Protest stood outside the offices of the HCHRS for 15 minutes shouting threats against members of the organization and, in particular, Ms. Sonja Biserko. A large cardboard swastika was left outside the offices after the group had gone. Movement 1389 has been protesting against the arrest of Mr. Radovan Karadzic, who is mentioned in the Annual Report of the HCHRS for 2007, for over 70 days. Movement 1389 is also reportedly responsible for vandalizing HCHRS property.

2324. On 2 October 2008, Ms. Sonja Biserko’s address and private details about her family were published by the newspaper Tabloid in an article about her. Further private information about her has been published on Tabloid’s website and the newspaper has referred to her as a “traitor of the homogeneous Serbianhood”.

2325. On 5 October 2008, two unknown men were found waiting in front of her house, and on the staircase. Both left after Ms Biserko’s colleagues from HCHRS arrived.

2326. Concern was expressed that the intimidation and harassment against Ms. Sonja Biserko and the HCHRS may be related to their legitimate activities in investigating and exposing violations of human rights in Serbia. Serious concern was expressed for the physical and psychological integrity of Ms. Sonja Biserko, as well all other members of the HCHRS.

### **Response from the Government**

2327. In a letter dated 15 December 2008, the Government responded to the communication sent on 27 October 2007. The Government reported that Ms Sonja Biserko filed, through her lawyer, criminal charges with the District Prosecutor’s Office in Belgrade against Ms Milica Grabez, journalist of the “Tabloid” daily newspaper. The charges were filed for criminal endangerment of safety, punishable under Article 67,



paragraph 2, in conjunction with paragraph 1 of the Criminal Code of the Republic of Serbia and instigation of ethnic, racial or religious hatred, punishable under Article 134, paragraph 1 of the Basic Criminal Law. Regarding this case, a decision was taken that there were no grounds for initiating proceedings. This information was communicated to Ms Biserko's lawyer in 14 December 2005. After the criminal charges had been dismissed by the District Public Prosecutor, her lawyer was able to take on criminal prosecution and institute criminal proceedings before the District Court and the Municipal Court in Belgrade.

2328. According to the report of the Police Department of the City of Belgrade, with regard to the case No Ktr.2305/07 of the Fourth Municipal Public Prosecutor's Office in Belgrade, an unknown person opened the mailbox at the entrance of the building where Ms Biserko lives and a sticker with the English text saying "a safe house for Ratko Mladic" was affixed to the door of the apartment. An extensive photographic documentation was submitted together with the report on CS investigation. However, by the date of the submission of the report of the Public Prosecutor's Office, no perpetrators had been identified. Representatives of the Helsinki Committee also filed criminal charges to the same Prosecutor's Office regarding this case.

2329. Criminal charges were filed to the First Municipal Public Prosecutor's Office under No Ktr.281/2998 against unknown persons (Yugoslav Liberation Resistance Movement), which were referred, on 12 February 2007, to the Ministry of Interior of the Republic of Serbia, Department of Public Peace and Order, for the purpose of collection of relevant information. In the case No Ktn.2900/06, the charges brought against unknown persons ("Liberators of Serbia") were referred to the Serbian Ministry of Interior for the purpose of collection of relevant information. In the case No Ktr.1867/07, criminal charges were filed against unknown persons on 15 March 2007. In this case, Ms Biserko was summoned on two occasions, on 12 October 2007 and 24 September 2008. In the case No Ktr.2058/08, a communication on criminal charges was received on 21 October 2008 and the person the charges were filed against was Dr Mihailo Popovic.

## **Observations**

2330. The Special Rapporteur wishes to thank the Government of Serbia for the detailed responses transmitted, and is encouraged by the criminal prosecution underway in the case of Ms Sonja Biserko. At the same time, the Special Rapporteur regrets that still no response had been transmitted to her with regard to the communication of 29 November 2007, concerning Ms Natasa Kandic.

2331. The Special Rapporteur wishes to remind the Government of Serbia of the recommendations contained in her report of the mission undertaken to Serbia in September 2007 (A/HRC/7/28 Add. 3), especially those contained in paragraph 78 of the report, recommending the Government to "take forceful action on investigating, prosecuting and sentencing cases regarding violations against human rights defenders and provide adequate protection and redress to human rights defenders affected by these violations".

## **Sri Lanka**

### **Urgent appeal**

2332. On 27 December 2007, the then Special Representative sent an urgent appeal to the Government concerning withdrawal of security measures for the protection of Mr **Mano Ganesan**, convener of the Civil Monitoring Commission (CMC). The CMC is an organization engaged in monitoring, documenting and advocating around cases of disappearances, abductions and killings. Mr Ganesan was the subject of an urgent appeal sent by the Special Representative of the Secretary-General on the situation of human rights defenders sent on 30 November 2006 (A/HRC/4/37/Add.1, para. 597) to which the Government has not replied.

2333. According to the information received, on 18 December 2007 security measures for the protection of Mr. Ganesan were withdrawn without notice. Mr. Ganesan had been provided with security measures in the aftermath of the killing of the co-founder of CMC, Mr. Nadaraja Raviraj, almost a year ago in Colombo, and for the death threats he had received.

2334. The Special Representative expressed her concern for the life and security of Mr Ganesan, which is more at risk without adequate security measures. Concern was also expressed that the withdrawal of security measures for the protection of Mr. Ganesan was linked to his high profile work against human rights violations in Sri Lanka and might be an attempt to curtail his human rights work.

### **Response from the Government**

2335. In a letter dated 28 November 2008, the Government replied to the urgent appeal. In relation to the interrogation of Mr. Mano Ganeshan, the Crime Investigation Department (CID) communicated that there had been no complaints lodged by, or on behalf of, Mr. Mano Ganeshan. Mr. Mano Ganeshan was interviewed by the officers of the Terroris Investigation Division (TID) on 28 August 2008 consequent to the statements made by the two suspects who are in the custody of the TID, and this was recorded on the basis of verification. Further, the officials had explained the reasons for recording the statement of Mr. Ganeshan and he was not treated as a suspect. Mr. Ganeshan had liberty to answer the questions forwarded by the investigators at his will. He was not forced to make any statement and Mr. Mano Ganeshan himself had appeared at the TID on the request of TID officials and made a voluntary statement. Due to the above reasons I am confident that the statement of Mr. Mano Ganeshan had been recorded according to international norms and standards. The sequence of events relating to when and why Mr. Mano Ganeshan was questioned was also annexed.

### **Letter of allegations**

2336. On 21 January 2008, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent a letter of allegation to the Government concerning Mr **Thiyagarajah Maheswaran**. Mr Thiyagarajah Maheswaran was a Colombo district parliamentarian of the opposition United National Party (UNP) and former Hindu Affairs Minister.

2337. According to information received, on 1 January 2008, Mr Thiyagarajah Maheswaran was reportedly killed by an unknown gunman. According to reports, Mr Maheswaran's assassination took place a few hours after he had told media in Colombo that he would reveal details in Parliament of government involvement in abductions and killings in Jaffna allegedly carried out by the Eelam People's Democratic Party (EPDP) paramilitary. In December 2007, the Government of Sri Lanka had reportedly reduced the security provided to Mr Thiyagarajah Maheswaran as a parliamentarian from eighteen persons to only two.

2338. Concern was expressed that the reduction of the security detail of Mr Thiyagarajah Maheswaran may have been linked to his human rights activities. Further concern was expressed that the subsequent killing of Mr Thiyagarajah Maheswaran may have been related to his work in defence of human rights.

### **Response from the Government**

2339. In a letter dated 26 March 2008, the Government responded to the communication sent on 21 January 2008. The Government informed that following investigations, Mr Johnson Colin Valentino, alias Vasanthan of Jaffna, and six others were taken into custody. Moreover, a pistol and seven empty bullets were recovered. Police Constable Dharmasiri identified Valentino alias Vasanthan as the person who shot Mr Maheshwaran.

2340. The suspect initially denied any involvement in the crime but later admitted that he committed the crime in instructions from the LTTE. The suspects are being detained on detention order and further investigations are being conducted by the Colombo Crimes Division of the Sri Lanka Police. Facts have been reported to the Colombo Magistrate's Court and the next court date is 7 March 2008. Investigations are at the concluding stage and the extracts of the investigation will be sent to the Attorney General for advice, as soon as the investigations are concluded.

### **Urgent appeal**

2341. On 28 March 2008, the then Special Representative sent an urgent appeal to the Government concerning information received regarding the situation of Mr **Pethuru Jesuthasan**, investigating assistant of the Human Rights Commission (HRC) of Sri Lanka, Jaffna office, and former Human Rights Coordinator of Jaffna for Caritas Human Development Centre.

2342. According to the information received, on 24 March 2008, the International Broadcasting Cooperation (IBC) radio station -a pro-Liberation Tigers of Tamil Eelam (LTTE) radio station functioning in Europe- broadcast the news that “Jesuthasan from Chavakachery, a high ranking officer of the Jaffna HRC is working as spy for the Sri Lankan military”. On the same day, Mr Pethuru Jesuthasan subsequently received two anonymous phone calls, supposedly from LTTE members, accusing him of working closely with the Sri Lankan military in Jaffna and threatening his life. A police complaint was reportedly filed. Mr Pethuru Jesuthasan strongly denied the allegations broadcast by IBC which aimed to jeopardize his work and neutrality.

2343. Concern was expressed that the acts of intimidation against Mr Pethuru Jesuthasan may be related to his non-violent activities in defence of human rights.

### **Letter of allegations**

2344. On 29 April 2008, the then Special Representative sent a letter of allegations to the Government concerning the killing of Reverend Fr. **M X Karunaratnam**, a Catholic priest as well as the founder and Chairperson of the North East Secretariat on Human Rights (NESOHR), operating in the areas administered by the Liberation Tigers of Tamil Eelam (LTTE). NESOHR was established in July 2004, as part of the Norwegian-facilitated 2002 Peace Process to strengthen the human rights protection mechanisms in the Northeast of Sri Lanka. Rev. Fr Karunaratnam was known to have worked to strengthen these mechanisms and sought to publicise the human rights violations to which the people living in the northeast, particularly the Wannu region, were subjected to. He also actively involved himself in providing psychological counselling to people affected by the war and the tsunami.

2345. According to the information received, on 20 April 2008, Reverend Fr. Karunaratnam, after presiding over Sunday Mass, was killed in his vehicle by a claymore attack carried out in Vannivilankulam, Mallavi, within the LTTE controlled territory. Serious concern was expressed that the killing of Reverend Fr. Karunaratnam may be related to his non-violent activities in defense of human rights. Further concern was expressed that this new killing may form part of a pattern of harassment against human rights defenders operating in the conflict area.

### **Response from the Government**

2346. In a letter dated 4 September 2008, the Government responded to the communication sent on 29 April 2008. The Government reported that there was no official complaint made to the police in Vavunya with regard to the killing of Ferv. Fr. M. X. Karunaratnam. The place of occurrence is an area unlawfully occupied by the LTTE, the aggrieved parties appear to be in fear to make a complaint against the LTTE. Since the area is not accessible to the police at the moment, inquiries cannot be pursued to provide any information with sufficient details.

## Letter of allegations

2347. On 30 May 2008, the Special Rapporteur sent a letter of allegations to the Government concerning the recent disappearances of Mr **Sebastian Goodfellow**, a driver for the Norwegian Refugee Council, Mr **Weerakutty Santhiralingam**, a driver for the Eastern Self Reliant Community Awakening Organisation, a local development organization, and the killing and enforced disappearance of **numerous other human rights defenders**, primarily those working in the field of humanitarian service in Sri Lanka. Mr Santhiralingam was the subject of an urgent appeal sent by the Working Group on Enforced or Involuntary Disappearances on 27 May 2008.

2348. According to information received, on the evening of 15 May 2008, Mr Sebastian Goodfellow, who was based in the province of Batticaloa, arrived in Colombo. He was subsequently in contact by telephone with a number of colleagues, with one receiving a missed call from him at approximately 23.00 that night. On the morning of 16 May, Mr Goodfellow's wife reportedly called him twice at 05.30; on the first occasion the phone rang out and on the second it was switched off. Reports indicated that Mr Goodfellow's phone was been switched on periodically over the weekend 17/18 May, and that persons speaking in Tamil answered, claiming that he had 'gone abroad' or 'gone to Germany'. To date, there is no further information regarding the whereabouts of Mr Goodfellow.

2349. On 15 May 2008, Mr Santhiralingam was also abducted after arriving in Colombo from Batticaloa with six colleagues. Reports indicate that, at approximately 21.30, several individuals, including one who was dressed in police uniform, arrived in a white van to the hotel where the men were staying, the Lakmal Inns on Milagiriya Avenue, Colombo 4. After questioning the men as to whether their organization was funded by the Norwegian government, these individuals asked them to identify themselves. When Mr Santhiralingam did so, he was assaulted and taken away in the van. As in the case of Mr Goodfellow, there was no further information regarding his whereabouts.

2350. These latest disappearances took place in the context of a progressively worsening situation for those working in the field of humanitarian aid and development in Sri Lanka. Reports indicated that, with the exception of March and October 2006, there had been at least one case per month of killing or enforced disappearance of a person engaged in humanitarian work in the 24 month period between January 2006 and December 2007 (see annex). The victims had been engaged in all aspects of humanitarian aid, development and relief. In this regard, the Special Rapporteur respectfully reminded the Government of the joint statement made by mandate-holders, including her predecessor, on 11 August 2006 which addressed many of the same concerns.

2351. To date, no information had reportedly been made public regarding the progress of investigations, prosecutions or convictions in relation to these crimes. The mandate-holders therefore respectfully requested that information regarding these cases be provided at the Government's earliest convenience.

2352. It was alleged that the killings and enforced disappearances of Mr Sebastian Goodfellow, Mr Weerakutty Santhiralingam, and of those mentioned in the annex to this letter may have been directly related to their activities in defense of human rights, in particular their work in aid and development. The Special Rapporteur expressed her most serious concern regarding the impunity of the perpetrators of these crimes and the very grave risks to the physical and psychological integrity of humanitarian workers in Sri Lanka.

2353. ANNEX OF CASES OF KILLINGS AND DISAPPEARANCES OF HUMAN RIGHTS DEFENDERS, INCLUDING HUMANITARIAN AID AND DEVELOPMENT WORKERS: January 2006 –December 2007.

**67 people.**

11 Jan 2006 Disappearance (abduction in white van) of Mr **Narayanamoorthy Kandeepan** and Mr **Thambiah Tharmasri** of the Danish Demining Group (DDG) in Point Pedro, Jaffna.

29 Jan 2006 Disappearance (abduction in white van) of Mr **Kathirkamar Thangarasa** and Mr **Kasinathar Ganeshalingam** of the Tamil Rehabilitation Organization (TRO), in Welikanda Polonnaruwa.

30 Jan 2006 Disappearance (abduction in white van), of Messrs **Arulnesarasa Satheeskarani Kailayapillai Ravindran, Shanmuganathan Sujendran, Thambiraja Vasantharajan** and Ms **Thanushkodi Premini** of the Tamil Rehabilitation Organization (TRO), in Welikanda Polonnaruwa.

04 Feb 2006 Disappearance of Mr **Kanagaratnam Logithas** of the HALO Trust, in Kaithady, Jaffna.

17 Feb 2006 Disappearance of Mr **Parameswaran** of the Mines Advisory Group (MAG), in Batticaloa.

10 Apr 2006 Killing of Mr **Chelvendra Pradeepkumar** and Mr **Shanmugaratnam Pathmanathan** of HUDEC – Caritas Jaffna, in Mirusuvil, Jaffna.

15 May 2006 Killing of Mr **Jeyaruban Gnanapragasam** of the Norwegian Refugee Council in Vavuniya.

26 May 2006 Killing of Mr **Ratnam Ratnaraja** of the North East Irrigated Agriculture Project (NEIAP) in Kalviyankadu, Batticaloa.

08 June 2006 Disappearance of Mr **Rajani** of a FORUT funded Nilavan Kudiyiruppu Tsunami Housing Scheme in Polikandy, Vadamarachchy, Jaffna.

02 July 2006 Disappearance of Mr **Krishnapillai Kamalanathan** of the Tamil Rehabilitation Organization (TRO), at Oddumawady Bridge, Valaichchenai, Batticaloa.

08 July 2006 Killing (beaten to death) of Mr **Rasiah Muraleeswaran** of a FORUT funded Nilavan Kudiyiruppu Tsunami HousingScheme in Polikandy, Vadamarachchy, Jaffna.

04 August 2006 Killing (shot execution-style) of Messrs **Abdul Latif Mohammed Jauffer, Ambigapathy Jayaseelan, Ganesu Kavitha, Gangatharan Sritharan, Kanakarathnam Kovarthani, Mathawarajah Ketheswaran, Mohanthesa Rishikesan, Muralitharan Dharmarathnam, Muthulingam Narmathan, Richard Arunraj, Sathyawel Koneswaran, Sellaiya Ganesu, SingharasaPrimus Anantharajah, Thurairaja Pratheepan, Yogarajah Kodeeswaran, Ms Sivapragasam Romila** and Ms **Vairamuthu Kokilavathani** in Mutur, Trincomalee.

20 August 2006 Disappearance of Rev. Fr. **Tiruchchelvan Nihal Jim Brown**, Catholic Parish Priest of Allaipiddy and his assistant Mr **Wenceslaus Vinces Vimalathas** at St. Mary's Church, Allaipiddy, Kayts, Jaffna

20 August 2006 Killing (shot) of Mr **Nagarasa Thavaranjitham** of the Sri Lanka Red Cross Society in Cheddikulam, Vavuniya.

24 August 2006 Killing (shot) of Mr **P Jestly Julian** of the United Nations Office for Project Services in Munaiyoorkulam, Thambiluvil, Ampara.

01 September 2006 Killing (shot) of Mr **Sathiyamoorthey Selvaroopan** of the Sewalanka Foundation in Karavedy, Jaffna.

11 September 2006 Killing (shot) of Mr **Ragunathan Ramalingam** of World Concern in Nilaveli Road, Trincomalee.

15 November 2006 Disappearance (abduction in white van) of Mr **Charles Huston Ravindran** of HALO Trust in Old Park Rd., Chudikkuli, Jaffna.

23 November 2006 Killing (shot) of Mr **Sabaratnam Rubesh**, of Terre des Hommes (TDH) in Periyaneelavanai, Ampara.

04 January 2007 Disappearance (abduction in white van) of Mr **Subramaniam Parameswaran** of HALO Trust in Racca Rd., Jaffna.

09 January 2007 Disappearance of Mr **C. Rajendran** of HALO Trust in Kellner Rd., Nallur, Jaffna.

09 February 2007 Disappearance of Mr **Nagarasa Narenthiran** of HALO Trust in Temple Rd., Nallur, Jaffna

24 March 2007 Killing of Mr **Muthuraja Aruleswaran** of the Tamils Rehabilitation Orgaziation (TRO) in Periyamadu, Mannar

01 April 2007 Killing (shot) of Messrs **Liyanamohottilage Dayananda Cabral, Liyanamohottilage Thushara Madusanka Cabral, Thoranahena Gedara Susantha Ranjith Abeykoon, Tissa Walan Mudiyansele Danapala, Tissa Walan Mudiyansele Wijethunga** and **Wele Pendige Chandrasiri** of Village of Hope, an orphanage for tsunami survivors, in Mailampaaveli, Batticaloa

13 May 2007 Killing (shot) of Ven. **Thero Handungamuwe Nandarathna**, Buddhist monk and Chief Incumbent of Sri Pabbathaaramaya in Morawewa, Trincomalee.

01/02 June 2007 Killing (shot) of Mr **Sinnarasa Shanmugalingam** and Mr **Karthequesu Chandramohan** of the Sri Lanka Red Cross Society at the Dumbara Estate, Ratnapura/Fort Railway Station, Colombo

19 June 2007 Disappearance of Mr **Sivarasa Vimalarasa** of the Danish Demining Group (DDG) in Kuppilaan, Mayilankaadu, Walikamam, Jaffna.

18 July 2007 Disappearance (abduction in white van) of Mr **Sivalingam Prabakaran** of the Danish Demining Group (DDG) in Mulliveethi, Ariyaalai, Jaffna.

23 July 2007 Killing (shot) of Mr **Arumainayagam Alloysius** of the Danish Refugee Council (DRC) in Jaffna

06 August 2007 Disappearance of Mr **Mohamed Zavahir Mohamed Rizvi** of the Methodist Community Organization for Refugees (UMCOR), in Trincomalee

20 August 2007 Killing (shot) of Mr **Sivasamy Sritharan** of the Danish Demining Group (DDG) in Kasthooriar Rd., Jaffna.

26 September 2007 Killing of Rev. Fr. **Nicholaspillai Pakiaranjith** of the Jesuit Refugee Service (JRS) in Mannar.

28 October 2007 Killing (shot) of Mr **Shanmuganathan Pakeerathanathan** of the Danish Demining Group (DDG) in Naranthanai, in Kayts, Jaffna

10 November 2007 Killing (shot) of Mr **Gouthu Jalaltheen** of the Rural Development Foundation(RDF), in Weerapura, Mannar

16 November 2007 Killing (shot) of Mr **Thangarajah Sujeevan** of the HALO Trust in Jaffna.

28 November 2007 Disappearance of Mr **Sinnathamby Sathanathan** of World Vision in Navatkuda, Batticaloa



14 December 2007 Killing (shot) of Mr **Sooriyakanthu Thavarajah** of the Jaffna Branch of the Sri Lanka Red Cross Society in Jaffna.

### **Urgent appeal**

2354. On 15 July 2008, the Special Rapporteur, together with the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning **the interrogation of staff of the Right to Life Centre, Law and Society Trust, Civil Monitoring Commission and Janasansadaya.**

2355. According to the information received, on 12 July 2008, three persons from the Colombo Crime Division (CCD) went to the office of the Right to Life Centre and questioned two staff members about the history, objectives and details of their work. The questioning came as a result of the printing and distribution of two leaflets during a public demonstration on 10 December 2007. The CCD officers requested the two staff members to go to the CCD office situated in Colombo 9 (Dematagoda), where they were questioned further. Information about the staff members and their families was also recorded.

2356. They were instructed to ensure that the leaders of all four organisations present themselves at the CCD office the next day. On 13 July 2008, four representatives from the Right to Life Centre and Law and Society Trust went to the CCD office, where they were questioned for several hours on the information contained in the leaflet, details of the organisations and family information.

2357. Concern was expressed that the questioning of staff of the above mentioned organizations may be a form of harassment to discourage them from carrying out their legitimate work in defense of human rights.

### **Response from the Government**

2358. In a letter dated 4 September 2008, the Government responded to the communication above. The Government reported that investigations were launched based on information received to the effect that the occupants of a vehicle were engaged in distributing pamphlets attempting to excite feelings of disaffection amongst the public in contempt of the administration of justice. The vehicle in question was searched by the security forces and police personnel, and a bundle of pamphlets, incriminating in nature, has been recovered. The owner of the vehicle stated that a person gave him the pamphlets when he stopped at a traffic light. The material in the pamphlet was provocative in nature, which would have aroused feelings of hatred towards security forces and the police.

2359. According to the details denoted in the pamphlet in its concluding page, readers were directed to the NGOs Right to Life; Law and Society Trust; Civil Monitoring

Commission and Janasansadaya for inquiries. In terms of Regulation 29 of the Emergency Regulations, it would be an offence to publish any false statement likely to cause public alarm or disorder, creating communal tension. In the pamphlet in question certain statements have been made against the armed forces and the police and the activities in the performance of their duties. Therefore it was necessary to investigate the nature of the publication and to seek legal advice from the Attorney General. In the course of the police investigations no arrests or detention were made and the investigators merely recorded statements. At no stage of the investigations were any threats or intimidations leveled on those who were subjected to questioning. The investigators conducted themselves within the law and had only performed their legitimate duties, which cannot be construed as harassment. The pamphlet, along with the statements, has been referred to the Attorney General for advice, which is awaited.

### **Urgent appeal**

2360. On 12 September 2008, the Special Rapporteur, together with the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, sent an urgent appeal concerning **Mr. Mano Ganesan**, leader of the *Western People's Front*; convener of the Civil Monitoring Commission campaigning against involuntary disappearances, extrajudicial killings, arbitrary arrests and detentions; President of the *Democratic Worker's Congress* and *Member of Parliament* for the Colombo district. Mr. Mano Ganesan was the subject of two urgent appeals sent on 30 November 2006 and 27 December 2007 by the then Special Representative of the Secretary-General on the situation of human rights defenders.

2361. According to the new information received, on 26 August 2008, Mr. Ganesan was summoned to the Colombo office of the Terrorist Investigation Division (TID) of the police by the director of TID. Mr. Ganesan was questioned for almost seven hours by Officer in Charge – Chief Inspector Prasanna de Alwis and Sub-Inspector Abdeen. The questions focused on his visits to Killinochchi between 2002 and 2005 during which he reportedly held peace talks with the LTTE political department. He was extensively interrogated about his alleged “special relationship” and “supportive links” with LTTE. Mr. Ganesan strongly denied these allegations. No charges have reportedly been brought against him for the time being.

2362. Apart from his interrogation mentioned above, there seems to be an ongoing defamation campaign in the media and by some State officials against Mr. Ganesan. The Ruling Party's official organ Dinakara newspaper labelled him as a “drug trafficker, underworld element and weapons runner” and the State owned Lake House's Sunday Observer as well as several Sinhala print and electronic media organs published stories associating him with bomb blasts that rocked Colombo. Finally, Defense Secretary Mr. Gotabaya Rajapakse accused him of being a “member and dealer with LTTE”.

2363. Concern was expressed that the arrest and interrogation, as well as the defamation campaign against, Mr. Ganesan may be solely connected to his activities in the defence of

human rights. Further concern was expressed regarding the physical and psychological integrity of Mr. Ganesan and his family members.

### **Urgent appeal**

2364. On 6 October 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the and Chairman of the Working Group on Enforced or Involuntary Disappearances, sent an urgent appeal regarding Mr. **J.C. Weliamuna**, lawyer and executive director of the Sri Lanka branch of the organisation *Transparency International*.

2365. According to the information received, on 27 September 2008, the premises of Mr. Weliamuna were attacked by two grenades. While the first grenade exploded, the second one was later found inside the house by the police.

2366. In the past, Mr. Weliamuna has dealt with important cases of bribery and corruption most of which involved state officials. He has also acted as a lawyer in bringing sensitive cases of alleged serious human rights violations to court, including extrajudicial killings, enforced disappearances and torture. On the day of the attack, Mr. Weliamuna moved a motion at the Bar Council in relation to a lawyer who had received death threats as a consequence of his appearance in a case of alleged extra-judicial killing.

2367. Concern was expressed that the attack against Mr. Weliamuna may be related to his activities in the defense of human rights, including as a lawyer.

### **Urgent appeal**

2368. On 22 October 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding Fr. **Sarath Iddamalgod**a, a founding member of the *Christian Solidarity Movement (CSM)*. Fr. Sarath Iddamalgod is a prominent leader in the CSM's current campaign to document the human rights and humanitarian crisis in the Vanni region, highlighting the abuses and suffering faced by civilians, particularly displaced people. It was said that this campaign seeks to raise awareness of the abuses faced by people affected by ongoing military operations, particularly the lack of security, food, medicine and shelter. The CSM provides reportedly independent information on these matters.

2369. According to information received, on 12 October 2008, Fr. Sarath Iddamalgod was accused of distributing materials against the Government and the Armed Forces by the Deputy Minister of Ports and Aviation, a Member of Parliament from Negombo. The Deputy Minister of Ports and Aviation asked Fr. Sarath Iddamalgod to cease these activities in Negombo, because "his group" was misleading innocent people. According to the Deputy Minister of Ports and Aviation, such campaigns should not be carried out

without previous consultation with him. These comments were later reported in a Sinhalese newspaper.

2370. On 13 October 2008, the Deputy Minister of Ports and Aviation condemned the CSM's campaign at a public meeting in Negombo, referring specifically to Fr. Sarath Iddamalgoda. The Deputy Minister stated that the Presidential Advisor, a Member of Parliament, as well as the Church authorities, had been informed of this condemnation. He asked the CSM to stop its campaign, claiming that Catholic priests would no longer be respected if they involved themselves in such campaigns.

2371. The same day the Deputy Minister of Ports and Aviations' statement was televised on the news by Independent Television Network (ITN), a State-owned television channel, as well as on two other television channels, Rupavahini and Eye TV. On 16 October 2008, at approximately 7 p.m., the ITN news again condemned the CSM campaign. The news item and related video clips were also featured on the ITN webpage. No channel contacted the CSM for comments despite the contact details being made available by the leaflets which had given rise to the accusation against the CSM.

2372. Concern was expressed that the accusation against Fr. Sarath Iddamalgoda and the CSM may be directly related to their activities in raising awareness of human rights violations in Vanni. Given that four human rights groups were reportedly questioned, on 12 July 2008, about leaflets which they had distributed, further concern was expressed that the events described above may form part of an ongoing trend of restriction of freedom of expression in Sri Lanka.

### **Urgent appeal**

2373. On 6 November 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal regarding threats received by registrars of all courts and a number of human rights lawyers in Sri Lanka.

2374. According to the information received, on 21 October 2008, registrars of all courts in Sri Lanka and a number of human rights lawyers reportedly received a notice from a group that identifies itself as the Mahason Balakaya (Mahason Battalion), threatening death or other serious physical harm to any lawyers who may defend any suspected terrorist in any court in Sri Lanka. These lawyers are referred to as "traitors", and should "be subject to the same fate that the terrorists mete out to [their enemies]".

2375. Concern was expressed for the physical and mental integrity of lawyers who offer legal assistance to suspected terrorists.

### **Observations**

2376. The Special Rapporteur wishes to thank the Government of Sri Lanka for the responses provided to her communications and urges the Government to transmit responses to the remaining seven communications.

2377. The Special Rapporteur is deeply concerned at the at the deteriorating human rights situation in Sri Lanka, particularly the shrinking space for critical voices and the fear of reprisals against victims and witnesses which – together with a lack of effective investigations and prosecutions – has led to unabated impunity for human rights violations.

2378. A climate of fear and intimidation reigns over those defending human rights, especially over journalists and lawyers. The Special Rapporteur considers that the safety of defenders has worsened considerably over the past year, most significantly following denunciations of human rights abuses committed by parties to the conflict, of corruption by state officials and of impunity. Serious and fatal aggression against journalists and the media are now a common occurrence as witnessed in the killing of the journalist Lasantha Wickremetunga and recent attacks on major media outlets.

2379. The Special Rapporteur hopes that the Government of Sri Lanka will respond favourably to her request of November 2008 to visit the country in order to strengthen the dialogue with the authorities.

## **Sudan**

### **Letter of allegations**

2380. On 21 January 2008, the then Special Representative sent a letter of allegations concerning **the attack of a convoy belonging to the newly-established United Nations-African Union Mission in Darfur (UNAMID)** by Sudanese armed forces. UNAMID took over at the start of this year from the under-manned AU peacekeeping mission. According to information received:

2381. On 7 January 2008, a clearly marked convoy carrying rations for UNAMID personnel was reportedly attacked by Sudanese troops while on its way from Um Baru to Tine in West Darfur. A civilian Sudanese driver suffered seven gunshot wounds.

2382. Serious concern was expressed that the aforementioned attack against the UNAMID convoy may be directly linked to the legitimate activities of UNAMID peacekeepers in defence of human rights and in protection of humanitarian actors in the Darfur regions.

### **Urgent appeal**

2383. On 22 May 2008, the Special Rapporteur, together with the Special Rapporteur on the question of torture, sent an urgent appeal on the situation of Mr. **Hassan Eltaib**

**Yassin**, a human rights defender operating in Port Sudan, and Mr. **Faries Abd Alhay Mohmed Ali**, student of al-Bahr al-Ahmar University and member of a student political body called the Democratic Front, in Port Sudan. According to the information received:

2384. In the evening of 13 May 2008, members of the National Security and Intelligence Service (NISS) twice visited the house of Mr Hassan Eltaib Yassin in Port Sudan, with the intention to arrest him. However, Mr Hassan Eltaib Yassin was not present at these times.

2385. It is alleged that these two attempts to arrest him are linked to his activities in assisting students who were arrested and detained by the NISS after clashes between students at the al-Bahr al-Ahmar University in Port Sudan on 11 May 2008, such as Faries Abd Alhay Mohmed Ali who was arrested at the gates of the Port Sudan Hospital when he was taking wounded students for treatment. During his detention Mr Faries Abd Alhay Mohmed Ali was beaten with water pipes and kicked with boots by members of NISS. He was released on 12 May after being warned that, should he be detained again, it will be for a much longer period.

2386. Concern was expressed that the attempt to arrest Mr Hassan Eltaib Yassin may be related to his non-violent activities in defense of human rights.

### **Urgent appeal**

2387. On 28 November 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the situation of human rights in the Sudan, sent an urgent appeal on the situation of three human rights defenders, Messrs **Amir Mohamed Suliman**, Chairperson of the Khartoum Centre for Human Rights and Environmental Development (KCHRED), **Abdel Monim Elgak**, Regional Program Coordinator for the Strategic Initiative for Women in the Horn of Africa (SIHA), and **Osman Ali Hummaida**, human rights researcher and member of the World Organization Against Torture (OMCT) Assembly of Delegates. Osman Ali Hummaida is also the former director of the London-based Sudanese Organization against Torture and a UK citizen. According to the information received:

2388. On 24 November 2008 at around noon, Abdel Monim Elgak and Osman Ali Hummaida were arrested by officers of the National Intelligence and Security Services (NISS) outside the offices of the Sudanese non-governmental organization SIHA in Khartoum 3. On the same day, Amir Mohamed Suliman was also arrested by NISS officers. All three men were taken to the political department of the NISS in Bahri (Khartoum North) for interrogation and were reportedly questioned on their human rights activities, in particular suspected cooperation with the International Criminal Court (ICC), which is currently investigating a request by the prosecutor for an arrest warrant against the Sudanese President on charges of war crimes, crimes against humanity and genocide.

2389. Messrs Amir Mohamed Suliman and Abdel Monim Elgak were released without charge in the evening of 24 November and early hours of 25 November respectively. On 25 November, Abdel Monim Elgak made a statement to a Sudanese online news outlet in which he criticized the arrests as a means to seek to intimidate Sudanese human rights defenders. That day, the NISS summoned him once more and detained him until the early hours of 26 November. About two hours after his release he was again arrested and detained until the early hours of the following day. Amir Mohamed Suliman and Abdel Monim Elgak were both summoned to return to the NISS office on 27 November at 11am to hand over bags and computers which NISS officers said they needed to examine. Amir Mohamed Suliman turned in the equipment and was allowed to leave.

2390. Mr Osman Ali Hummaida remained in detention without charge and without contact with the outside world until 1am on 28 November, at which point he was released without charge. On the day after his arrest members of his family brought clothes and medicine for his asthma and high blood pressure to the office of the NISS but were not allowed to see him.

2391. On 25 and 26 November, both Abdel Monim Elgak and Osman Ali Hummaida were reportedly subjected to different forms of torture and other ill-treatment in order to force them to hand over their computers and other belongings which the NISS officers sought to confiscate. They were asked repeatedly whether they had cooperated with the ICC prosecutor and told to disclose details of information passed on to the prosecutor's office. Abdel Monim Elgak was reportedly so severely beaten on various parts of his body, including his head, and subjected to other forms of ill-treatment that he required medical treatment following his release. In an apparent effort to force Osman Ali Hummaida to turn over his electronic equipment, he was reportedly made to witness Abdel Monim El Gak being beaten and ill-treated so severely that he vomited.

2392. Osman Ali Hummaida was reportedly also subjected to beatings with black plastic pipes on his shins and feet, humiliated and subjected to serious threats, such as the threat of rape. He was detained in different detention facilities of the NISS in Khartoum, blindfolded during transports between detention facilities and subjected to sleep deprivation and 18-hour long interrogations. During the fourth day of his detention he was reportedly twice hospitalized in the Amal hospital belonging to the NISS because his blood pressure had increased so severely that it required to be treated. Doctors in the hospital reportedly did not respond to his complaints that he had been subjected to beatings and sleep deprivation in NISS detention.

2393. In view of the reports of torture used on Mr Osman Ali Hummaida and Mr Abdel Monim Elgak and the medical condition of the latter, grave concern was expressed for the physical and mental integrity of the three human rights defenders. Further concern was expressed that the arrest and interrogation of Messrs Amir Mohamed Suliman, Abdel Monim Elgak and Osman Ali Hummaida may be linked to their non-violent activities in defence of human rights.

## **Observations**

2394. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to any of the communications sent in 2008 and to the ones of 15 April 2007, 24 September 2007 and 29 November 2007. She considers response to her communications an important part of the cooperation of Governments with her mandate. She urges the Government to respond to the concerns raised by her, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken. She remains particularly concerned about the situation of humanitarian workers operating in the Darfur regions.

## **Syrian Arab Republic**

### **Urgent appeal**

2395. On 8 January 2008, the then Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal concerning Mr. **Fayez Sara**, a journalist who contributes to several newspapers, including the Lebanese daily Assafir and the pan-Arab daily Al-Hayat. He is also a member of the network called “Committees for the Revival of the Civil Society (CRCS)”, which engages in human rights related and political discussions.

2396. According to the information received, on 3 January 2008, Mr. Sara was arrested by the security forces after appearing in response to a summons. His detention is believed to be related to his participation in a meeting of the National Council of the network “Damascus Declaration for Democratic National Change” held on 1 December 2007, which called for democratic change and political openness in Syria, and statements related thereto made by Mr. Sara during a TV programme on 1 January 2008. Moreover, Mr. Sara is the eighth signatory of the “Damascus Declaration” who is being detained by the authorities without any specific reasons given. He is being held incommunicado without charge and access to legal counsel or his family at the detention facilities of the State Security Branch in Damascus. Mr. Sara is suffering from a malfunctioning thyroid gland which requires constant observation and medical treatment.

2397. Concern was expressed that the arrest and detention of Mr. Sara may be related to his reportedly peaceful activities in defence of human rights. In view of his reported incommunicado detention and his state of health, further concern was expressed as regards Mr. Sara’s physical and mental integrity.

### **Urgent appeal**

2398. On 11 January 2008, the then Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special



Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning Mr **Mohammed Haj Darwish**, Dr **Ahmad Tohme** and Dr **Walid Bunni**, political activists, Mr **Jaber al-Shoufi**; member of the executive board of the Committees for the Defence of Freedoms and Human Rights in Syria, Mr **Akram al Bunni** and Mr **Ali al-Abdullah** founder-member and member respectively of the Committee for the Revitalisation of Civil Society in Syria, Dr **Fida al-Hurani**, a political activist, recently elected President of the National Council of the Damascus Declaration, and Dr **Yasser Tayser Aleiti**, an intellectual. The aforementioned are reportedly the eight activists who remain in detention -together with Mr Fayez Sarah who was the subject of a joint urgent sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the question of torture and Special Representative of the Secretary-General on the situation of human rights defenders on 8 January 2008- following a series of arrests, on 9 December 2007, of over forty human rights defenders and political activists on the part of the Syrian State Security Services.

2399. According to information received, the arrests allegedly took place following a meeting of 163 activists in Damascus on 1 December 2007. The meeting was reportedly organised by the Damascus Declaration for Democratic and National Change to address the issue of political reform in Syria, and resulted in the creation of the National Council of the Damascus Declaration, a collective movement of political activists and human rights defenders.

2400. On 2 January 2008, Syrian security forces allegedly arrested Mr Rashid Satouf, who was released on 5 January. Subsequently, on January 7, 2008, the security forces summoned Mr. Mohammed Haj Darwish, member of the Human Rights Association in Syria and a founding member of the Committees for Revitalizing Civil Society in Syria, to the state security offices in Damascus, and later arrested him.

2401. To date, no charges have been made against any of the nine men detained, nor have they appeared before a court.

2402. Concern was expressed with regard to their physical and psychological integrity of the above-mentioned persons while in detention. Further concern was expressed that the arrest and detention of the aforementioned persons may be directly linked to their work in defence of human rights, in particular their efforts to promote civil and political rights in Syria.

### **Response from the Government**

2403. In a letter dated 1 July 2008, the Government responded to the communication above. The Government noted that the persons mentioned in the communication were engaged in activities prohibited in the Syrian Arab Republic under ordinary law, which was established in 1949.

2404. The interviews with these persons confirmed that they had violated the regulations and laws in force in the Syrian Arab Republic. The facts were confirmed in writing in their confessions, during the police inquiry and also during the examination conducted by the investigating judge in the presence of their defence lawyers. The Damascus Public Prosecutor instituted proceedings against them under ordinary law.

2405. The transcripts of all the interviews with these persons confirm that they committed the offence of membership of an unauthorized association, the object of which is to alter the character of the State, and that they had issued a statement which aimed to incite sectarian and racial conflict and spread false information. They did so under the cover of disseminating democratic ideas, whereas in fact they violated articles 206, 285, 286 and 327 of the Criminal Code of 1949, as amended. On the basis of the above, the investigating judge in Damascus took the decision to refer the case to the judge to indict them for the aforementioned crimes. The indictment division judge referred the case to the Damascus Criminal Court for trial. Since the decision of the judge is subject to appeal, their defence counsel appealed it and the case is under consideration before the Trial Division of the Court of Cassation.

2406. The legal basis for their continued detention is the aforementioned indictment decision. Syrian law provides, in such cases, that they must be remanded in custody and brought for trial before the criminal court in the first instance. That court then considers whether to release them at its discretion. Consequently, they are not in arbitrary detention.

2407. In conclusion, the Government confirmed that all the prosecution, investigation and judicial procedures relating to these persons have been conducted in accordance with the regulations and general laws in force in the Syrian Arab Republic, which are in accordance with international standards and norms.

### **Urgent appeal**

2408. On 4 February 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal concerning Mr **Marwan al-'Ush**, geology engineer, Mr **Riad Seif**, former member of the Syrian parliament and 'Damascus Spring' figurehead, Mr **Mohammed Haj Darwish**, a member of the Human Rights Association in Syria and a founding member of the Committees for Revitalizing Civil Society in Syria, Dr Ahmad Tohme, dentist, Mr **Fayez Sarah**, a journalist and founding member of the Committees for Revitalising Civil Society in Syria, Dr **Walid al-Bunni**, Mr **Jaber al-Shoufi**, member of the executive board of the Committees for the Defence of Freedoms and Human Rights in Syria, Mr **Akram al-Bunni**, a member and founder of the Committee for the Revitalization of Civil Society in Syria and Mr **Ali al-Abdullah**, founder-member and member respectively of the Committee for the Revitalisation of Civil Society in Syria, Dr **Fida al-Hurani**, recently elected President of the National Council of the Damascus Declaration, and Dr **Yasser Tayser Aleiti**, an intellectual. The latter nine individuals were the subject of an

urgent appeal sent by the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 11 January 2008.

2409. According to information received, on 15 January 2007, Mr Marwan al-'Ush was arrested by State Security officials. Since then, Mr Riad Seif has also been detained. Both men, along with all the aforementioned persons, attended a meeting of 163 activists in Damascus on 1 December 2007, reportedly organized by the Damascus Declaration for Democratic and National Change to address the issue of political reform in Syria. The meeting resulted in the creation of the National Council of the Damascus Declaration, a collective movement of political activists and human rights defenders calling for establishing a democratic system that respects citizens' rights, ensures freedom of speech and association, and ends discrimination based on religious or political beliefs.

On 27 January 2008, Mr Walid al-Bunni, Mr Yasser al-'Eiti, Dr Fida' al-Horani, Mr Akram al-Bunni, Mr Ahmad To'meh, Mr Jabr al-Shoufi, Mr Ali al-'Abdullah, Fayez Sarah, and Mr Marwan al-'Ush were all reportedly transferred to 'Adra prison in Damascus. Dr Fida'a al-Horani was then transferred to the women's prison in Douma, on the outskirts of Damascus. Mr Riad Seif was also transferred to 'Adra prison following his appearance before the investigating judge on 29 January 2008. The detainees have reportedly been detained on charges including "weakening national sentiments" "broadcasting false or exaggerated news which would affect the morale of the country", and joining an "organization formed with the purpose of changing the financial or social status of the state".

2410. All those detained are reported to have been ill-treated while in the custody of State Security officials at their base in Damascus; Mr Ali al-'Abdullah is alleged to have been so severely beaten that he sustained a serious injury to his oesophagus and it is not known if he has received medical treatment. Furthermore, Mr Riad Seif is reported to be suffering from advanced prostate cancer and urgently requires specialist treatment only available outside Syria.

2411. Serious concern was expressed that the latest arrest and detention of Mr Marwan al-'Ush and Mr Riad Seif, as well as the charges brought against all the detainees, may be directly related to their activities in defence of human rights, particularly the exercise of their right to freedom of expression and association. In view of reports of ill-treatment and the ill-health of Mr Riad Seif, further concern was expressed for their physical and psychological integrity while in detention.

### **Response from the Government**

2412. In a letter dated 1 July 2008, the Government responded to the communication above. The content of the reply is summarized above.

### **Urgent appeal**

2413. On 25 February 2008, the then Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal concerning Ms. ‘Aisha Afandi, aged 48, and Ms. Kawthar Taifour, aged 50, both members of the Kurdish minority in the Syrian Arab Republic. According to the information received:

2414. Ms. ‘Aisha Afandi and Ms. Kawthar Taifour were arrested by members of State Security Services on 28 November 2007. Ms. ‘Aisha Afandi was arrested at 4 a.m. at her home in ‘Ein al-‘Arab (Qoubani); the place and exact time of the arrest of Ms. Kawthar Taifour is not known. Both women are believed to be currently held in incommunicado detention at the women’s wing of al-Maslamieh Prison in Aleppo without charge or trial. Both do not have access to legal counsel or contact with their families. They are being held together with convicted criminals and pre-trial detainees.

2415. The authorities have not yet disclosed any reason for their arrest and detention. It is believed that these measures might be linked to non-violent demonstrations by members of the Kurdish minority on 2 November 2007 in the cities of Qamishli and ‘Ein al-‘Arab (Qoubani).

2416. Ms. ‘Aisha Afandi and Ms. Kawthar Taifour are members of an organisation calling itself “Democratic Union Party (PYD)”. Ms. Aisha Afandi’s husband, Mr. Saleh Muslim, is a leading member of the “PYD”.

2417. Ms. Afandi suffers from a brain cyst which affects blood flow to the brain and which can cause a loss of consciousness, especially in stressful situations.

2418. In view of their reported incommunicado detention, concern was expressed with respect to the physical and mental integrity of Ms. ‘Aisha Afandi and Ms. Kawthar Taifour. Further concern was expressed as regards Ms. Afandi’s state of health in detention. Finally, concern was raised that Ms. Afandi’s and Ms. Taifour’s arrest and detention might be solely connected to their reportedly peaceful exercise of their right to freedom of opinion and expression and their right to association, in defence of human rights of Kurds in Syria.

### **Urgent appeal**

2419. On 4 March 2008 the then Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture sent an urgent appeal concerning Mr **Jean Rassoul**, a member of the Committee of the Cereal Trade Union Branch in Tal Ziwan. According to the information received, on February 26, 2008, Mr Rassoul was on his way to work when he was arrested without warrant by a State security patrol. He was then taken to an unknown location. No information is currently available as to his place of detention.

2420. In view of Mr Rassoul's incommunicado detention, serious concern was expressed for his physical and mental integrity. Further concern was expressed that the arrest and detention of Mr Rassoul might have been directly related to his activities in defense of human rights, in particular workers' rights.

### **Response from Government**

2421. By letters dated 12/03/08 and 3/06/08, the Government informed that Mr. Rassoul was arrested for inciting racist acts likely to cause strife among citizens and to expose national security to the risk of the disintegration of national unity and civil war. The laws in force in the Syrian Arab Republic do not punish people for exercising their right to freedom of expression; the Constitution guarantees the rights and freedoms of all citizens, while the Criminal Code stipulates that any State employee who arrests or detains a person in circumstances not sanctioned by law shall be punished by a term of imprisonment with hard labour. The Code also states that any warden or guard of a prison, a disciplinary institution or a correctional facility and any official performing such functions who admits a prisoner to a facility without a court order or continues to hold a prisoner after the end of the legally prescribed term shall be liable to a penalty of from one to three years' imprisonment. We should point out that the practice in the Syrian Arab Republic is consistent with its laws and does not allow anyone to be subjected to physical or mental torture or humiliating treatment. Anyone who subjects a person to unlawful beating with a view to extracting a confession to, or information about a crime shall be punished by a term of three months to three years' imprisonment. Prosecutions have been initiated against a number of persons for breaching these provisions, either on the basis of a complaint from an aggrieved party or through proceedings initiated by the Department of Public Prosecutions.

### **Letter of allegations**

2422. On 3 April 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegations concerning Mr. **Mazen Darwish**, head of the *Syrian Centre for Media Freedom and Freedom of Expression*.

2423. According to the information received, on 12 January 2008, Mr. Darwish was detained for three days after publishing a report on riots that occurred in Damascus, criticizing the alleged failure of security agencies to protect civilians killed on that occasion. After his detention, Mr. Darwish was accused of "libelling and defaming the states' bodies", following a complaint made by the police station in the Damascus suburb of Adra. He appeared before a military tribunal on 17 March, when it was decided that his trial before a military court would take place on 15 April.

2424. Concern was expressed that the arrest and detention of Mr. Darwish and the charges against him may be related to his non-violent activities in defence of human rights, in particular the exercise of his right to freedom of expression.

### **Urgent appeal**

2425. On 22 April 2008, the then Special Representative, together with the Special Rapporteur on the question of torture and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal **Karam Ibrahim Yousef**. Mr. Karam Ibrahim Yousef is a writer and human rights defender active in defence of the human rights of the Kurdish community in Syria.

2426. According to information received, on 20 March 2008, Karam Ibrahim Yousef was shot in the head by Syrian Security Forces whilst he was photographing the national Kurdish celebrations of their traditional new year in the city of Qamishli. Due to his injuries he had to be hospitalized. His health condition remains critical.

2427. Karam Ibrahim Yousef has been interrogated repeatedly by the authorities, but no charges have been brought against him.

2428. Concern was expressed that the attack against Mr. Karam Ibrahim Yousef may be related to his peaceful human rights activities, in particular his work to defend the rights of the Syrian Kurdish community. Further concern was expressed that this attack may constitute part of a trend of escalating intimidation and acts of hostility against human rights defenders in Syria.

### **Urgent appeal**

2429. On 23 April 2008, the then Special Representative, together with the Vice-Chairperson of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Mohammed Badih al-Bab**, a member of the National Organisation for Human Rights in Syria, a non-governmental organization which promotes human rights.

2430. According to the information received, on 2 March 2008 Mohammed Badih al-Bab received a summons and was subsequently arrested by military security forces in Damascus. Mohammed Badih al-Bab is currently in detention, but his exact whereabouts are unknown. He has been denied access to a lawyer and is not allowed any visitors. No charges have yet been brought against him.

2431. The reasons for his arrest remain unclear, but it appears that he received the summons following articles he has recently written, in which he criticised the Minister for Information, Mr. Mohsen Bilal.

2432. In 2000, Mr. Mohammed Badih al-Bab was sentenced to 15 years' imprisonment. He was released in 2005 following a presidential amnesty.

2433. Concerns were expressed that the arrest and detention of Mr. Mohammed Badih al-Bab might be solely connected to his peaceful activities in defending human rights and the exercise of his right to freedom of opinion and expression. In view of the reported incommunicado detention of Mohammed Badih al-Bab at an unknown place of detention, further concerns were expressed that he might be at risk of ill-treatment.

### **Letter of allegations**

2434. On 8 May 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations concerning Mr. **Ahmed Al Haji Al Khalaf**, a member of the Syrian branch of the Arab Organisation for Human Rights (AOHR).

2435. According to information received, on 22 April 2008, Mr. Ahmed Al Haji Al Khalaf was sentenced to 5 days imprisonment by the Military Tribunal of Raka (the North-east of the Syrian Arab Republic) for “defamation” and “weakening the moral of the State”. Mr. Ahmed Al Haji Al Khalaf was sentenced after having published an article criticizing the lack of transparency and democracy in the functioning and the decision-making process of the Department of Education in Raka. Mr. Al Khalaf was released after the five days.

2436. Concern was expressed that the sentencing of Mr. Ahmed Al Haji Al Khalaf may be directly related to his activities in defense of human rights, particularly his exercise of the right to freedom of expression.

### **Response from the Government**

2437. In a letter dated 29 October 2008, the Government responded to the communication sent on 8 May 2008. The Government reported that Mr. al-Khalaf was sentenced to 10 days' imprisonment for defaming a public authority. The sentence was commuted to 5 days' imprisonment after mitigating factors had been taken into account. Mr. al-Khalaf was released after serving his sentence.

2438. The sentence handed down to Mr. al-Khalaf was delivered according to the procedures and laws pertaining to trials and offences, and the defendant's right to freedom of opinion and expression was not infringed. Articles 378 and 244 of the General Criminal Code reflect provisions found in French law and many other laws throughout the world; they are not incompatible with the International Covenant on Civil and Political Rights.

### **Urgent appeal**

2439. On 16 May 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding Mr **Habib Salih**, a writer and pro-democracy campaigner. Mr Habib Salih was the subject of a communication sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture on the 8 June 2005 which to date regrettably remains without a reply from the Government.

2440. According to the information received: on 9 May 2008, Mr Habib Salih was arrested at the market in Tartus. No reason was given for his arrest, but it is believed that it is related to articles he wrote that were published on websites, among them the website Elaph ([www.elaph.com](http://www.elaph.com)), which is currently censored. On 25 July 2007, Telecommunications Minister Amr Salen reportedly ordered website owners to keep personal details of all writers publishing articles on their sites.

2441. Mr Habib Salih has been arrested twice before in relation to his human rights activities. In 2002, he was sentenced to 3 years' imprisonment and was released on 9 September 2004. On 15 August 2006, he was sentenced to another 3 years' imprisonment under article 286 of the criminal code for "publishing false news" after accusing the Government of corruption and a lack of respect for human rights. He was then released on 12 September 2007.

2442. Concerns were expressed that the arrest and detention might be solely connected to Mr Habib Salih's peaceful activities in defence of human rights, in particular his work in promoting democracy and freedom of expression in the country. In view of the reported incommunicado detention of Mr Habib Salih at an unknown place of detention, further concerns were expressed for his physical and psychological integrity while in detention.

### **Response from the Government**

2443. In a letter dated 20 October 2008, the Government responded to the above communication. The Government informed that Mr. Salih used the media to disseminate false information and incite sectarian strife, thus provoking chaos and unrest. These acts are punishable under the Syrian Criminal Code. Mr. Salih admitted the charges, which were based on solid facts and evidence, and was duly brought before the courts. The Office of the Public Prosecutor brought a public interest case against him under articles 285, 298, 307 and 377 of the Criminal Code for crimes punishable by law, including disseminating false information likely to provoke chaos and unrest.

2444. The investigating judge interviewed Mr. Salih in the presence of his defence lawyers. The case remains before the Syrian courts, which are the final authority in the matter, no party has a right to intervene in their work. The proceedings against Mr. Salih were taken in accordance with the law and international norms and criteria. Mr. Salih was



arrested not because of his human rights activities, as Al-Sadr claims, but because he committed criminal acts. Moreover, his detention is not arbitrary but lawful. He is in excellent health and undergoes periodic free medical examinations. He has the right to periodic visits, receives excellent food and care and is provided with all services free of charge. Any complaints or grievances that Mr. Salih might have would be investigated by the relevant authorities.

### **Urgent appeal**

2445. On 7 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning Mr **Mohammed Badih al-Bab**, member of the *National Organisation for Human Rights* in Syria.

2446. According to information received, on 29 June 2008, Mr Mohammed Badih al-Bab received a sentence of six months' imprisonment after having been charged for potentially harming the state by "broadcasting false news" under article 287 of the Syrian Penal Code. On 2 March 2008, he was arrested after having written articles which criticised the Minister for Information. In 2000, Mr Mohammed Badih al-Bab had previously been sentenced to fifteen years' imprisonment but was released in 2005 after a presidential amnesty.

2447. Concern was expressed that the imprisonment of Mr Mohammed Badih al-Bab may be directly related to his activities in defense of human rights as member of the National Organisation for Human Rights. In view of that mentioned above, serious concern was expressed for the physical and psychological integrity of Mr Mohammed Badih al-Bab while in detention.

### **Urgent appeal**

2448. On 16 July 2008, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal to the Government regarding Mr **Hammam Haddad**, a university student, author of a magazine and writer of Internet articles.

2449. According to information received, on 5 May 2008, Mr Hammam Haddad was arrested at his home in Damascus by state security forces. Although no reason was given for his arrest it was believed that it was carried out to prevent him from further giving publicity to cases of human rights violations in the Syrian Arab Republic in his publications. Mr Haddad's whereabouts are unknown.

2450. Concern was expressed that the arrest and detention of Mr Hammam Haddad may be related to his work in the defense of human rights, in particular his work to expose

human rights violations in the Syrian Arab Republic. In view of his reported incommunicado detention at an unknown location Concern was expressed for the physical and psychological integrity of Mr Hammam Haddad.

### **Response from the Government**

2451. In a letter dated 10 September 2008, the Government replied to the above communication. At the time of the finalization of the present report, a translation of the reply was not yet available.

### **Urgent appeal**

2452. On 17 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government in relation to Mr **Hasan Qasem** and other members of the pro-democracy group **Damascus Declaration for Democratic National Change (DDDNC)**. Apart from Mr Hasan Qasem, 47 members of the DDDNC were arrested after 1 December 2007 when a meeting was held and a steering committee was elected. Their detention was reported in previous communications of the then Special Representative of the Secretary-General on the situation of human rights defenders, including those sent on 8 and 11 January 2008. A response to the latter was received on 1st July 2008. Although 34 DDDNC members were released after a few days, 11 males and one female reportedly remained in detention near Damascus. The whereabouts of another male detainee remained unknown.

2453. According to information received, on 24 June 2008, an appeal submitted by the 12 members of the DDDNC who were in detention near Damascus was rejected. The detainees were due to be tried before the Damascus Criminal court for “weakening national sentiment”, “broadcasting false or exaggerated news which would affect the morale of the country”, “forming an organisation with the purpose of changing the economic of social status of the state” and “inciting racial or sectarian strife” under Articles 285, 286, 306 and 307 of the Syrian Penal Code respectively. The date of their trial was not known.

2454. On 9 July 2008, Mr Hasan Qasem was called to the General Intelligence Department, State Security Branch, in Kafr Soussa district, Damascus. He was then allegedly held in isolated detention there.

2455. Concern was expressed that the detention of Mr Hasan Qasem and the 13 other members of the DDDNC may be related to their work in the defense of human rights, in particular their work to promote democracy in Syria. Concern was expressed for the physical and psychological integrity of Mr Hasan Qasem as well as that of other members of the DDDNC while in detention.

### **Response from the Government**

2456. In a letter dated 10 September 2008, the Government replied to the above communication. At the time of the finalization of the present report, a translation of the reply was not yet available.

### **Follow-up communication**

2457. On 4 September 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent a follow-up communication, relating to the urgent appeal concerning Mr. **Jean Rassoul**, a member of the Committee of the Cereal Trade Union Branch in Tal Ziwan, which was sent on 4 March 2008.

2458. The above-mentioned urgent appeal was transmitted as an "allegation" of a credible nature which was brought to the attention of the relevant mandate-holders and subsequently the Government for the purposes of clarification, and to ensure all efforts were undertaken to protect the human rights of the person concerned.

2459. According to the information received by the mandate-holders at the time, Mr. Rassoul was reported to have been arrested by Government agents and taken to a place not made known, including to his family and colleagues; an allegation of fact, as the concerned persons (including family and colleagues) had no knowledge of his whereabouts for approximately one week since his arrest. A person in detention who has not had the ability to have external contact (e.g. through visits by a doctor and lawyer, or visits or telephone calls to family members to inform them of their whereabouts and condition) is effectively considered as held incommunicado.

2460. We recall that numerous resolutions of the former Commission on Human Rights, and the Human Rights Council, and the General Assembly have recognized that "prolonged incommunicado detention or detention in secret places may facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person" (e.g. paragraph 12 of General Assembly Resolution A/RES/61/153).

2461. The Special Rapporteur on torture has therefore co-signed the communication out of concern that the alleged detention incommunicado may put the person at risk of torture or ill-treatment, or indeed may constitute a form of such treatment. As the person was believed to be detained at the time of the communication, we had immediate concern for his physical and mental integrity, and hence issued an urgent appeal to your Government.

### **Urgent appeal**

2462. On 10 September 2008, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning Mr **Hamam Haddad**, a human rights defender, author of a magazine and writer. Mr Hamam Haddad had been the subject of an urgent appeal sent on 16 July 2008 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the question of torture, and Special Rapporteur on the situation of human rights defenders. No response to this communication has been received so far.

2463. According to the new information received, on 7 September 2008 Mr Hamam Haddad was reportedly arrested by state security forces without an arrest warrant. The reason for his arrest is unknown, and he is held in an unknown location.

2464. On 5 May 2008 Mr Hamam Haddad was arrested at his home in Damascus by state security forces. He was released on 28 July 2008 without charges.

2465. Concern was expressed that the arrest and detention of Mr Hamam Haddad may be related to his work in the defense of human rights, in particular his work to expose human rights violations in the Syrian Arab Republic.

### **Urgent appeal**

2466. On 21 October 2008, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal regarding the travel ban imposed against Mr. **Akhtam Naisse**, a lawyer, a founding member of the *Committee for the Defense of Democratic Liberties and Human Rights in Syria (CDF)*, Director of the *Cham Centre for Democratic and Human Rights Studies* in Syria, and winner of the *Martin Ennals Award for Human Rights Defenders* in 2005.

2467. Communications were sent in relation to Mr. Akhtam Naisse by various mandate-holders on 15 November 2001, 16 February 2004, 9 March 2004, 11 June 2004, and 6 August 2004. A response from your Government was received on 20 September 2004.

2468. According to new information received, on 14 October 2008, Mr. Akhtam Naisse attempted to travel to the United Arab Emirates but was prevented from boarding the plane at Damascus Airport. He was detained for over two and a half hours by security forces at the airport. In the United Arab Emirates he was scheduled to participate in a regional human rights forum in conjunction with the fifth session of the Forum for the Future, an annual meeting which focuses on political reform and sustainable development and is organized by the Group of Eight (G8) nations as well as Middle East and North African nations. The authorities reportedly told Mr. Akhtam Naisse that the travel ban had been imposed against him because various security forces are looking for him.

2469. Earlier this year, travel bans were imposed against various human rights defenders in Syria. For instance, between 16 and 19 April 2008, Messrs. Rasim Al Atasy, Mahmoud Maree and Ahmed Manjonah were prevented from traveling and subsequently could not attend the general meeting of the Arab Organisation for Human Rights.

2470. Concern was expressed that the imposition of the travel ban against Mr. Akhtam Naisse may be directly related to his activities in the defense of human rights. Further concern was expressed that this may form part of an ongoing trend of harassment against human rights defenders in Syria.

### **Urgent appeal**

2471. On 31 October 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding the sentencing of Dr. **Fida al-Hurani**, President of the *National Council of the Damascus Declaration for Democratic and National Change*; Mr. **Ali al-Abdullah**, a member of the *Committee for the Revitalization of Civil Society* in Syria; Mr. **Akram al-Bunni**, a founding member of the *Committee for the Revitalization of Civil Society* in Syria; Mr. **Riad Seif**; Mr. **Fayez Sarah**, a journalist and founding member of the *Committees for Revitalizing Civil Society* in Syria; Dr. **Ahmad Tohme**; Mr. **Jaber al-Shoufi**, a member of the executive board of the *Committee for the Defense of Freedoms and Human Rights* in Syria; Dr. **Walid al-Bunni**; Dr. **Yasser Tayser Aleiti**; Mr. **Mohammed Haj Darwish**, a member of the *Human Rights Association* in Syria and a founding member of the *Committee for Revitalizing Civil Society* in Syria; Mr. **Marwan Al-Aach**; and Mr. **Tala Abu-Dan**. All of these human rights defenders are members of the *National Council of the Damascus Declaration for Democratic and National Change*. The Damascus Declaration for Democratic and National Change was signed in October 2005 and calls for political freedom, respect for ethnic and religious minorities, and freedom of expression.

2472. Dr. Fida al-Hurani, Mr. Ali al-Abdullah, Mr. Akram al-Bunni, Mr. Riad Seif, Mr. Fayez Sarah, a journalist and founding member of the Committees for Revitalising Civil Society in Syria; Dr. Ahmad Tohme, Mr. Jaber al-Shoufi, Dr. Walid al-Bunni; Dr. Yasser Tayser Aleiti, and Mr. Mohammed Haj Darwish, were the subjects of urgent appeals sent to your Government by mandate-holders on 11 January 2008 and 4 February 2008. The response from your Government was received on 1 July 2008.

2473. According to new information received, on 29 October 2008, the president of Damascus' Assize Court sentenced the 12 members of the National Council of the Damascus Declaration for Democratic and National Change to 36 months' imprisonment. They had been charged with "publishing false information with the aim of harming the State", "membership in a secret organization designed to destabilize the State", and "inciting ethnic and racial tensions". Those who have been sentenced have 30 days to appeal. 40 members of the Damascus Declaration for Democratic and National Change

have been arrested since 1 December 2007, when 163 of its members met in Damascus to discuss democratic reform in Syria.

2474. Concern was expressed that the 12 members of the National Council of the Damascus Declaration for Democratic and National Change are unable to continue their activities in the defense of democracy while in prison. Further concern was expressed for the physical and psychological integrity of the 12 members of the National Council of the Damascus Declaration for Democratic and National Change during their imprisonment. It was feared that the sentencing of the 12 members of the National Council of the Damascus Declaration for Democratic and National Change may form part of an ongoing trend of harassment against pro-democracy activists in Syria.

### **Observations**

2475. The Special Rapporteur wishes to thank the Government of the Syrian Arab Republic for the responses provided to seven of her communications, and would urge the Government to reply to the outstanding eleven communications as well.

2476. The Special Rapporteur is deeply concerned at the number of arrests and detentions of human rights defenders in connection with the exercise of their right to freedom of expression. She is particularly concerned at the arrests and detentions related to the Damascus Declaration for Democratic and National Change. The Special Rapporteur wishes to remind the Government of its obligations under the International Covenant on Civil and Political Rights and the Declaration of human rights defenders.

2477. The Special Rapporteur hopes that the Government of the Syrian Arab Republic will respond favourably to her request of November 2008 to visit the country in order to engage in a constructive dialogue with the authorities.

## **Thailand**

### **Response from the Government to a communication issued before 11 December 2007**

2478. In a letter dated 19 November 2008, the Government responded to the urgent appeal of 18 December 2006 on the situation of Mr **Thares Sodsri**. According to the information received from the Royal Thai Police, on 30 November 2006 at around 10.00-11.00pm, Mr Thares Sodsri went missing from his residence at Ban Kha District, Ratchaburi Province. On 16 December 2006, the police found pieces of human remains on land belonging to a suspected person in the same district. Following examination by forensic experts, it was confirmed that the remains were those of Mr Thares Sodsri. The police thus proceeded with the case and subsequently three suspected persons were arrested. After the enquiries had been concluded, the police sent the investigation files to the prosecuting attorney who subsequently instituted criminal prosecutions against these

three persons to the Criminal Court on 8 March 2007 on the count of jointly committing premeditated murder. On 28 June 2007, the attorney instituted another criminal prosecution against the fourth suspect who turned himself in to the police after the above three defendants had been prosecuted. The first hearing of the testimony of the four defendants was held on 19 December 2007 at the Ratchaburi Provincial Court. The appropriate judicial processes are continuing to pursue their course.

### **Urgent appeal**

2479. On 15 February 2008, the then Special Representative, together with the Special Rapporteur on the question of torture, sent an urgent appeal on the situation of Messrs. **Kuyi Etae, Amisi Manak, Abdullah Doloh, Ishmael Tae, Ahama Bodong, Sobri Kasor, and Abdolasis Arong**. The aforementioned are university students and volunteers at the Legal and Human Rights Training Project of the Students Federation of Thailand (SFT) and the Working Group on Justice for Peace (WGJP). The SFT is a national network of students active in organizing activities addressing the violence in the Southern provinces of Thailand, while the WGJP is a local human rights group conducting training programmes touching on issues such as the imposition of martial law, the Internal Security Law and the legal and human rights of villagers in provinces of Southern Thailand. According to information received:

2480. On 27 January 2008, a group of plainclothes military men from the 11th Special Branch Forces arrived at the university dormitory. They arrested the first five aforementioned individuals and seized a desktop computer, a laptop, seven mobile phones and one camera. The five men were sent to Inkayutaburiharn Army Camp. On 28 January 2008, soldiers from the 11th Special Branch Camp also arrested Sobri Kasor and Abdolasis Arong at Yala Rajabhat University. The two men were then taken to the 11th Special Branch Camp.

2481. Before being sent to the camp, the first five men were allegedly beaten all over their bodies with a metal bar wrapped with cloth and were forced to stand out in the sun for several hours. While in detention they were allegedly blindfolded with their arms tied behind their back, kicked all over their bodies, including faces by soldiers wearing military combat boots, punched on their stomachs and faces, slapped on their faces, had their heads covered with a sack and were hit on their backs.

2482. Kuyi Etae, Amisi Manak, Abdullah Doloh, Ishmael Tae and Ahama Bodong were released on 5 February 2008 but Sobri Kasor and Abdolasis Arong apparently remain in detention at the 11th Special Branch Camp. It is not known whether any charges have been brought against any of the men.

2483. Concern was expressed that the arrest and detention of the aforementioned individuals may be directly related to their work in defense of human rights, particularly the rights of villagers in Southern Thailand. In view of reports of ill-treatment while in detention, serious concern was expressed for the physical and psychological integrity of the two remaining detainees, Messrs Sobri Kasor and Abdolasis Arong.

**Letter of allegations**

2484. On 22 February 2008, the then Special Representative of the Secretary-General on the situation of human rights defenders and the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of allegations to the Government in relation to a group of human rights defenders and civil society activists, including Mr. **Jon Ungphakorn**, Chairperson of the NGO *Coordinating Committee on Development (NGO-COD)* Mr. **Pairoj Polpetch**, Secretary General of the *Union for Civil Liberty (UCL)*, Mr. **Sirichai Mai-ngarm**, member of the *Labour Union of Electricity Generating Authority* of Thailand, Mr. **Sawit Kaewwan**, leader of the *Confederation of State Enterprise Labour Union*, Ms. **Supinya Klang-narong**, Secretary General of the *Media Reform Campaign*, Ms. **Saree Ongsomwang**, member of the Customer's Network, Mr. **Amnat Palamee**, leader of the *Confederation of State Enterprise Labour Union*, Mr. **Nutzer Yeehama**, a member of the NGO *Friend of People*, Mr. **Anirut Chaosanit**, member of the *Council of People's Organizations Network* in Thailand, and Mr. **Pichit Chaimongkol**.

2485. According to information received, on 22 January 2008, the aforementioned were reportedly summoned to the Metropolitan Police Bureau, where they were questioned for over four hours, before the presentation of charges, including: "trespass by using force or joining with more than two persons associating together to intrude forcefully or to cause harm", "illegal gathering and using force with ten or more persons to cause damage or to give rise to public disorder", "failing to disperse when ordered to by the police", "collaborating with five or more persons to incite others to violence in one form or another to threaten the lives and safety of others", and "collaborating to detain or restrict other persons." The ten men requested 15 days to respond to the charges and submit more information to investigators. This was granted, as was their request for bail.

2486. These charges were reportedly brought after a complaint made by the Secretary-General of the National Legislative Assembly, in relation to a series of demonstrations which took place on 12 and 19-21 December 2007 in protest against attempts to pass eight bills with consequences for civil liberties in Thailand, particularly an Internal Security Bill, reportedly seen by many as an attempt to tighten government control prior to the general election on 23 December.

2487. In the course of the demonstration a number of those gathered, including Messrs. Jon Ungphakorn and Pairoj Polpetch reportedly entered the parliamentary building and discussed the Internal Security Bill with members of parliament. These exchanges were reportedly peaceful and the protesters dispersed following an announcement that debate of the Bill was suspended for the day. This subsequently proved to be untrue and the Internal Security Law was passed that evening.

2488. Concern was expressed that the charges brought against the aforementioned may have been directly related to their activities in defense of human rights, particularly their exercising of the right to freedom of expression and assembly.



## **Response from the Government**

2489. In a letter dated 11 July 2008, the Government responded to the letter of allegations. The letter communicated that on 12 December 2007, around 100 demonstrators, led by Mr. Jon Ungphakorn in demonstrations outside the National Legislative Assembly (NLA), managed to get into the Parliament building during a meeting of the NLA. According to eyewitness and photographic evidence, forceful means were used by the demonstrators to disrupt the NLA meeting. They used 10 wooden ladders to climb across the fence into the Parliament grounds. 30 entered the lobby area while approximately 60 to 70 demonstrated just outside the meeting room building. Mr. Jon Ungphakorn admitted in his article published in the Bangkok Post on 19 December 2007, that the objective of his group was to put “great pressure” on the NLA to stop considering the eight bills “by non-violent but by more forceful means than usual”. Mr. Jon Ungphakorn admitted that he was well aware that the action of his group “did not meet with the approval of the majority of the media and probably the majority of society”. He also knew well that such forceful action was against the law. He further admitted that serious charges against him and his group could be expected. All the charges against him and the other nine activists were based on the situation on the ground that involved the use of force. Since their actions were against the law, all persons involved had to bear the legal consequences, regardless of the objective they may have had in conducting the protest. On 18 March 2008 the Metropolitan Police Bureau sent the investigation file to the Office of the Attorney General (OAG). After having considered the file the OAG requested further inquiries of the defendant’s witnesses to ensure justice for all alleged persons before making a decision on prosecution. The OAG scheduled its decision as to whether to proceed with the prosecution for 21 August 2008.

## **Urgent appeal**

2490. On 26 February 2008, the then Special Representative, together with the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, sent an urgent appeal on the situation of Ms **Angkhana Neelaphaijit**, wife of human rights lawyer Mr Somchai Neelaphaijit, who disappeared four years ago. Ms Neelaphaijit is currently part of the witness protection programme in Thailand. Ms Neelaphaijit was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 7 September 2005 and of an urgent appeal sent by the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 28 March 2006. Most recently Ms Neelaphaijit was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation

of human rights defenders pursuant to Commission on Human Rights resolutions on 16 March 2007. According to new information received:

2491. Serious concerns for Ms Angkhana Neelaphaijit's safety have arisen following the recent decision by the Department of Special Investigation (DSI) to transfer supervision of witnesses under protection to police officers as of next 1 March 2008. Previously, civilian officers from the Ministry of Justice were reportedly assigned to provide witness protection in cases where the police were the alleged perpetrators. On 22 February 2008, Police Col Thawee Sodsong was reportedly appointed new head of DSI. Police Col Thawee Sodsong was allegedly the superior officer of the police officers who were on trial in connection with Mr. Somchai Neelaphaijit's disappearance. Another police officer reportedly implicated him in the case during his testimony in court.

2492. Ms. Angkhana Neelaphaijit, along with many other victims of police abuse, have traditionally reportedly received witness protection by civilian officers under the Justice Ministry. The above mentioned decision has led to the imminent withdrawal of some of participants in the witness protection programme, including Ms. Neelaphaijit. This decision is reportedly based on the fact that she requires protection as a result of her efforts to bring those responsible for her husband's disappearance to justice, Mr Somchai Neelaphaijit's abduction having been allegedly carried out by police officers.

2493. Serious concerns were expressed in regard to Ms. Angkhana Neelaphaijit's safety, including her physical and psychological integrity, in view of the decision to transfer witness protection to police officers and in relation to her activities in defense of human rights in the country.

### **Urgent appeal**

2494. On 20 March 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal on the situation of the situation of Ms **Angkhana Neelaphaijit**, wife of human rights lawyer Mr Somchai Neelaphaijit, who disappeared four years ago. Ms Neelaphaijit is currently part of the witness protection programme in Thailand. Ms Neelaphaijit was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 7 September 2005 and of an urgent appeal sent by the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 28 March 2006 Most recently Ms Neelaphaijit was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders pursuant to Commission on Human Rights resolutions on 16 March 2007, and another urgent appeal sent by the

Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances and the Special Representative of the Secretary-General on the situation of human rights defenders on 26 February 2008. According to new information received:

2495. On 12 March 2008, Ms Angkhana Neelaphaijit delivered a statement to the Human Rights Council to report on the latest developments and obstacles in the investigation of the disappearance of Ms Angkhana Neelaphaijit's husband, Mr Somchai Neelaphaijit, which occurred four years ago. Ms Neelaphaijit made the following appeal to the Thai Government and the Department of Special Investigation:

2496. "1. To request the Thai government and the DSI to be sincere in bringing justice to this case and prosecuting the wrong doers including high ranking police officers as it is my believe that enforced disappearance is a heinous crime against humanity.

2497. 2. To request the DSI to be courageous and to call Pol Lt Col Thaksin Shinawatra, former Prime Minister of Thailand to give testimony as a witness in this case. Information has been received that a close colleague of Pol Lt Col Thaksin Shinawatra went to search for information and a picture of Mr Somchai Neelapaichit at the Government Identification Information Center. In addition, Pol Lt Col Thaksin, himself, stated in an interview to all media on January 13, 2006, the day after the verdict of the First Court, that "he knows that Somchai has passed away because evidence suggests so..." As Thaksin was Prime Minister at that time, this interview must be credible and he must have had enough evidence before saying this.

2498. 3. Contained in the verdict of the First Court testimony of a plaintiff witness reveals that "...Pol Maj Gen Krisada Phankongchuen received information from Pol Lt Col Wannaphong Kotcharath that Pol Lt Col Charnchai Likhitkhanthasorn had met with known group of people in front of the Crime Suppression Unit and who informed him that they are going to abduct a corrupted lawyer. Later, Pol Lt Col Charnchai informed Pol Col Tawee Sodsong about this information..." Therefore, Pol Col Tawee Sodsong, who is now the Acting Director of the DSI has the responsibility to clarify whether he knew of Somchai Neelapaichit's disappearance.

2499. 4. To request the DSI to be very careful in this case and to try to compile strong evidence so that the wrong doers would be prosecuted. The DSI should not hurry to pursue the case in court without relevant and strong evidence. A lack of strong evidence means that real culprits will not be prosecuted or innocent people are being punished for crimes they did not commit.

2500. 5. To request the Thai government to ratify International Convention for the Protection of All Persons from Enforced Disappearance in order to guarantee the safety and protection everyone from enforced disappearance.

2501. I strongly believe that the success of Somchai Neelaphaijit case is determined by the sincerity of the Government and the effectiveness of the DSI. Of particular concern is the fact that Pol Gen Sombat Amornwiwat, who was the former supervisor of the five

accused persons standing trial in the case before, is now an advisor of the Ministry of Justice.”

2502. Concern was expressed that Ms Angkhana Neelaphaijit may fear reprisals when returning to Thailand, after reading the above statement in her capacity as human rights defender.

### **Response from the Government**

2503. By a letter dated 2 April 2008, the Government responded to the communication, indicating that it has continually cooperated with the Working Group on Enforced or Involuntary Disappearances by providing relevant information on the cases of the disappearance of Mr Somchai Neelaphaijit and the safety of his wife, Ms Angkhana Neelaphaijit, which are under the consideration of the Working Group. In November 2007, representatives from the Government agencies concerned met with the Working Group at its 83rd session in Geneva to provide an update on the latest developments in some outstanding cases, including that of Mr Somchai Neelaphaijit. The Government states that it attaches great importance to the case of Mr Somchai Neelaphaijit, which is currently under the investigation of the Department of Special Investigation (DSI), Ministry of Justice. To be more specific, certain progress and developments have been made and have helped the investigators to move forward. The Government believes that more information should be forthcoming as the investigation proceeds. The Government is determined to do its utmost and will leave no stone unturned in order to bring justice to the case of Mr Somchai Neelaphaijit.

2504. With regard to the information regarding that Ms Angkhana Neelaphaijit delivered a statement to the 7th session of the Human Rights Council (HRC) on 12 March 2008 to report on the latest developments in the investigation of the disappearance of Mr Somchai Neelaphaijit, the Government points out that actually Ms Angkhana Neelaphaijit made such remarks at the side-event of the 7th session of the HRC on 11 March 2008, organized by the Permanent Mission of France, in collaboration with a group of friends and the International Coalition against Enforced Disappearances. His Excellency Mr Sihasak Phuanketkeow, Ambassador and Permanent Representative of the Kingdom of Thailand to the United Nations in Geneva, attended the said event and made an intervention responding to her concerns and reassuring her that the Royal Thai Government is seriously addressing this case and legal actions will be taken in accordance with gathered evidence and due process of law. The Government adds that what had transpired during that event was reported back to the Ministry of Foreign Affairs of Thailand as a matter of urgency. The Ministry of Foreign Affairs has subsequently conveyed this matter to the authorities concerned in Thailand for their consideration and further action.

2505. As for the concern on the safety of Ms Angkhana Neelaphaijit and the transfer of her protection to police officers, the Government wants to clarify that the DSI has restructured the witness protection team, but the unit which provides protection for Ms Angkhana Neelaphaijit is still under the DSI, not the police authorities. Moreover,

Angkhana Neelaphajit continues to receive protection from the same team that she received in the past. In any case, the Thai authorities concerned stand ready to offer any necessary protection, if needed, to ensure her safety in accordance with the Thai law and Constitution.

### **Urgent appeal**

2506. On 18 August 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal on the situation of Mr **Ismael Tae**, aged 22 and a 4th year student at the Faculty of Science, Major Communication, Yala Rajabhat University; Mr **Amisi Manak**, aged 22 and a 4th year student at the Faculty of Management Sciences, Major Finance, Yala Rajabhat University; Mr **Romlee Latae**, aged 21 and a second year student at the Faculty of Science, Major Biology, Yala Rajabhat University; Mr **Ruslan Tuyong** and Mr **Waerosalee Latae**, aged 23 and 4th year students at the Faculty of Education, Management Program, Yala Rajabhat University. All five students belong to the Student Federation of Yala, a student organization involved in organizing human rights activities in Yala Province.

2507. Messrs Ismael Tae and Amisi Manak were the subject of a joint urgent appeal sent by the Special Rapporteur on the question of torture and the then Special Representative of the Secretary-General on the situation of human rights defenders on 15 February 2008. No response of the Government of your Excellency has been received as of today. According to the information received:

2508. On 15 August 2008, Messrs Ismael Tae, Amisi Manak, Romlee Latae, Ruslan Tuyong and Waerosalee Latae were reportedly arrested by law enforcement authorities, and are reportedly held since then in Special Task force 11 in Yala. Prior to their arrest and detention, the five students were involved in fundraising activities in support of the forthcoming holding of their student camp.

2509. Concern was expressed that the arrest and detention of Messrs Ismael Tae, Amisi Manak, Romlee Latae, Ruslan Tuyong and Waerosalee Latae may be linked to their non-violent activities in promoting human rights in Yala province. In view of the previous reports of ill-treatment against Messrs Ismael Tae and Amisi Manak while in detention in Special Taskforce 11 in Yala which triggered the sending of the aforementioned urgent appeal in February 2008, further concern was expressed for the physical and psychological integrity of the five students while in detention.

### **Response from the Government**

2510. By a letter dated 1 October 2008, the Government responded to the communication, sharing the following preliminary clarification (detailed clarification will be provided later). On 17 August 2008, following a tip-off from a reliable source, the police authorities conducted a search of a private dormitory in Yala and found certain evidence with links to known perpetrators of violence in the Southern Border Provinces

of Thailand. The authorities therefore invited the 5 students named in the communication, from Rajabhat University Yala, occupants of the dormitory, to provide information and clarification regarding the said evidence. They were not charged, and were released on 27 August 2008. The whole process was carried out in accordance with the Thai law and Constitution. The Vice-Rector and lecturers from Rajabhat University Yala were invited to witness the search and subsequent invitation to the students to provide information. The police authorities reported the results of the search to the Yala Provincial Court, in accordance with the established procedure. At no time were the students at risk of maltreatment by the authorities, as some have alleged. The Vice-Rector of Rajabhat University Yala, their lecturers as well as friends and families were allowed to visit the said students. A representative from the Cross Culture Foundation, an independent NGO, was also informed and aware of the whole process.

### **Observations**

2511. The Special Rapporteur thanks the Government for its responses, but regrets that at the time of the finalization of this report, the Government had not transmitted a reply to the communications of 19 December 2006, 16 March 2007, 15 February 2008 and 26 February 2008. She considers response to her communications an important part of the cooperation of Governments with her mandate. She urges the Government to respond to the concerns raised by her, and provide detailed information regarding investigations undertaken, prosecutions as well as protective measures taken.

2512. The Special Rapporteur remains deeply concerned about the enforced disappearance of Mr Somchai Neelaphaijit, and urges the Government to continue its efforts in shedding light on his case and bringing the perpetrators to justice. She further remains concerned about the safety of Mr Somchai Neelaphaijit's wife, Ms Angkhana Neelaphaijit, who leads an international campaign on the disappearance of her husband, notably in her capacity as Chairperson of the non-governmental organization the Working Group on Justice for Peace.

2513. The Special Rapporteur is very perturbed by the death of Mr Thares Sodsri, and urges the Government to provide her with detailed information in relation to the investigation and prosecution in the case at its earliest convenience.

## **Tunisia**

### **Réponses du Gouvernement à des communications envoyées avant le 11 décembre 2007**

2514. Par une lettre en date du 13 juin 2008, le Gouvernement a répondu à l'appel urgent du 26 juillet 2006 au sujet de Mme **Néziha Rjiba**. Le Gouvernement indique que les investigations diligentées ont révélé que les faits rapportés par l'intéressée sont infondés et qu'aucune plainte n'a été déposée à ce sujet. Pour ce qui est des prétendus empêchements d'accès au local du Conseil National pour les libertés en Tunisie (CNLT),

il importe de souligner que le CNLT est une formation n'ayant pas d'existence légale en Tunisie, dans la mesure où un arrêté du Ministre de l'Intérieur avait fait opposition à sa constitution en raison du non-respect par ses fondateurs des conditions légales requises pour sa création. Un recours en annulation dudit arrêté a été introduit devant le Tribunal administratif et l'affaire suit son cours.

2515. Par une lettre en date du 13 juin 2008, le Gouvernement a répondu à la lettre d'allégations du 13 novembre 2007 au sujet de Me **Abderraouf Ayadi**. Le Gouvernement indique qu'après vérification des faits allégués, il s'est avéré que les intimidations dont il aurait fait l'objet sont dénuées de tout fondement et que l'intéressé n'a fait l'objet d'aucun acte de violence. Par ailleurs, il n'a déposé aucune plainte à ce sujet.

### **Lettre d'allégations**

2516. Le 14 janvier 2008, l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme a envoyé une lettre d'allégations concernant M. **Ali Ben Salem**, président de la section de Bizerte de la Ligue Tunisienne des Droits de l'Homme et vice-président de l'Association de lutte contre la torture en Tunisie. M. Ali Ben Salem a fait l'objet d'un appel urgent envoyé le 11 juillet 2006 par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et de Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, d'un appel urgent envoyé le 19 juin 2006 par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et d'une lettre d'allégation envoyée le 11 juin 2004 par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et le Rapporteur Spécial sur la question de la torture. Selon les nouvelles informations reçues :

2517. Le 20 décembre 2007, une soixantaine d'agents de police, dirigés par le Chef du Secteur et le Chef du District de Bizerte auraient encerclé le domicile de M. Ali Ben Salem et empêché des amis de celui-ci d'entrer dans son domicile afin de célébrer la fête Eid. M. Ali Ben Salem aurait protesté contre ces faits et aurait alors été violenté, en l'occurrence il serait tombé et aurait été piétiné par des agents. M. Ali Ben Salem aurait été transporté aux urgences de l'hôpital Bougatfa de Bizerte, escorté par un groupe de policiers qui auraient cherché à intimider le personnel médical. Le médecin qui examina M. Ali Ben Salem aurait constaté par écrit des traces de violence sur la tête, les épaules et le dos.

2518. Des craintes sont exprimées que ces nouveaux actes de harcèlement à l'encontre de M. Ali Ben Salem soient liés aux activités non-violentes de celui-ci.

### **Lettre d'allégations**

2519. Le 6 mars 2008, l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur la torture, a envoyé une lettre d'allégations concernant Mmes **Fatma Ksila** et **Samia Abbou**, respectivement secrétaire générale du Comité pour le respect des libertés et des droits de l'Homme en Tunisie (CRLDHT) et membre de l'Association de lutte contre la torture en Tunisie (ALTT). Mmes Ksila et Abbou s'occupent de la collecte de témoignages de victimes de torture en vue de la rédaction d'un rapport conjoint CRLDHT / ALTT sur le recours à la torture et aux mauvais traitements en Tunisie dans le cadre d'affaires jugées sur la base de la loi anti-terroriste. Selon les informations reçues :

2520. Le 14 février 2008, Mme Ksila aurait été empêchée d'accéder au domicile de Mme Fatma Tlili par des policiers en civil qui l'auraient insultée. Mme Tlili aurait annoncé la veille son intention d'entamer une grève de la faim en solidarité avec son fils Abderrahmane, lui-même en grève de la faim depuis le 15 janvier 2008 afin de dénoncer les mauvaises conditions dans lesquelles il serait détenu et les mauvais traitements dont il ferait l'objet à la prison de Mornaguia, dans la banlieue de Tunis.

2521. Le 15 février, Mme Ksila aurait été empêchée par des policiers en civil de se rendre au cabinet de Me Radhia Nasraoui, présidente de l'ALTT afin de rencontrer des familles de prisonniers pour recueillir leur témoignage. Les policiers auraient insulté Mme Ksila.

2522. Le 16 février, Mmes Ksila et Abbou auraient dû rencontrer les familles des membres du groupe Soliman condamnés à perpétuité et à de lourdes peines de prison, à Sidi Bouzid. Quelques minutes après leur arrivée au domicile de l'une de ces familles, de nombreux policiers auraient envahi la rue, conduits par le chef de la police du district de Sidi Bouzid. Mmes Ksila et Abbou auraient alors été contraintes de quitter la ville, et la police les aurait suivies jusqu'à la sortie de l'agglomération.

2523. Enfin, le 18 février, après s'être rendues chez les parents de M. Imed Ben Amer, condamné à la peine capitale dans l'affaire du groupe de Soliman, à Sousse, Mmes Ksila et Abbou auraient été physiquement agressées, traînées par terre et rouées de coups par de nombreux policiers en civil, qui auraient également proféré à leur encontre des injures obscènes. Mme Ksila aurait alors perdu connaissance. La police aurait ensuite complètement vidé les sacs à main des deux femmes, confisquant de l'argent liquide, un appareil photo et un magnétophone appartenant à Mme Ksila. Mmes Ksila et Abbou auraient ensuite été contraintes de prendre une voiture de location à huit places, dont six occupées par des agents de la police politique en civil, à destination de Tunis. Une fois arrivées, Mmes Fatma Ksila et Samia Abbou se seraient rendues au cabinet de Me Mohamed Abbou. Ce dernier aurait alors également fait l'objet d'insultes et de provocations, puis menacé d'agression.

2524. Des craintes sont exprimées que les actes de harcèlement à l'encontre de Mmes Ksila et Abbou soient liés à leurs activités non-violentes de protection des droits de l'homme, en particulier leur collecte de témoignages de victimes de torture.



### **Lettre d'allégations**

2525. Le 16 avril 2008, l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur la torture, a envoyé une lettre d'allégations concernant la situation de Mme **Sihem Bensedrine**, porte-parole et fondatrice du Conseil national pour les libertés en Tunisie, secrétaire générale de l'Observatoire pour la Liberté de la presse, d'édition et de création en Tunisie et lauréate du Prix de la Paix 2008 décerné par la Fondation danoise pour la paix, ainsi que M. **Omar Mestiri**, directeur de la rédaction du journal en ligne Kalima. Selon les informations reçues :

2526. Dans la matinée du 3 mars 2008, Mme Bensedrine et M. Mestiri, à leur retour à Tunis en provenance d'Europe par le port de La Goulette, auraient été soumis à une fouille corporelle, retenus à la douane durant six heures et physiquement agressés par des agents de la police. Ils auraient ensuite été conduits dans le bureau de la douane et, une fois à l'intérieur, auraient été frappés. Mme Bensedrine souffrirait notamment de plusieurs hématomes sur le corps et d'entorses au poignet gauche et au coude. Leurs vêtements et leurs sacs auraient également été déchirés au cours de l'agression et leurs téléphones portables et leurs cartes bancaires, ainsi que plusieurs documents n'existant qu'en un seul exemplaire, auraient été confisqués par ces mêmes agents. Enfin, ces derniers auraient également copié les disques durs des ordinateurs portables de Mme Bensedrine et M. Mestiri.

2527. Des craintes sont exprimées que les actes de harcèlement susmentionnés à l'encontre de Mme Bensedrine et M. Mestiri soient liés à leurs activités non-violentes de défense et promotion des droits de l'homme.

### **Réponse du Gouvernement**

2528. Par une lettre datée du 13 juin 2008, le Gouvernement a indiqué que Mme Sihem Bensedrine et M. Omar Mestiri sont arrivés au port de La Goulette le 3 mars 2008 à bord d'un bateau italien en provenance de Gênes, qui transportait également une automobile d'immatriculation étrangère appartenant au couple et remplie de marchandises diverses en grande quantité. Conformément aux procédures douanières, le véhicule est passé devant le détecteur des substances interdites, qui aussitôt a émis un signal, à plusieurs reprises, contraignant l'agent de douane à inviter le conducteur à faire descendre les effets pour inspections. Une fois l'inspection terminée, les effets ont été remis dans le véhicule. Aucun effet n'a été saisi. Mme Bensedrine et son époux n'ont subi aucun mauvais traitement, encore moins aucune violence. Aucune plainte pour mauvais traitement n'a été déposée à ce jour dans aucune juridiction en Tunisie par les deux époux.

### **Appel urgent**

2529. Le 10 avril 2008, l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur la torture et la Vice-Présidente du Groupe de Travail sur la détention arbitraire, a envoyé un appel urgent sur la situation de MM. **Adnane Haji**, secrétaire général du Syndicat de l'enseignement de base de Redeyef, **Foued Khenaiissi**, membre de l'Union locale du travail de Redeyef, **Taeïb Ben Othmane**, membre du Syndicat de l'enseignement de base de Redeyef, et **Boujomâa Chraïti**, secrétaire général du Syndicat de la santé de Redeyef. Selon les informations reçues :

2530. Le 7 avril 2008, MM. Haji, Khenaiissi, Ben Othmane et Chraïti auraient été violemment interpellés par la police, au lendemain de leur participation à une réunion, à Tunis, portant sur la question du chômage des travailleurs du bassin minier de Gafsa, dans le sud-ouest de la Tunisie. Cette réunion serait intervenue dans un contexte où, depuis le début du mois de janvier 2008, un mouvement de protestation aurait vu le jour dans la région de Gafsa et environ 30 syndicalistes, étudiants et chômeurs auraient été arrêtés depuis le 6 avril 2008.

2531. M. Haji, qui souffre d'une insuffisance rénale, ainsi que MM. Khenaiissi, Ben Othmane et Chraïti auraient été frappés avant d'être arrêtés. Ils auraient ensuite été transférés au commissariat de Gasfa et l'accès à leurs avocats leur aurait été refusé.

2532. Des craintes sont exprimées quant au fait que l'arrestation de MM. Haji, Khenaiissi, Ben Othmane et Chraïti et les mauvais traitements dont ils auraient fait l'objet soient liés à leurs activités de défense des droits de l'homme, et en particulier à leurs activités syndicalistes. D'autres craintes sont exprimées au sujet de l'arrestation des manifestants lors du mouvement de protestation dans la région de Gafsa.

### **Appel urgent**

2533. Le 6 juin 2008, la Rapporteuse Spéciale sur la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur l'indépendance des juges et des avocats et le Rapporteur spécial sur la torture, a envoyé un appel urgent sur la situation de M. **Slim Boukhdir**, 39 ans et correspondant du journal panarabe basé à Londres Al Quds Al Arabi et du site internet de la chaîne de télévision satellitaire Al-Arabiya. Il publie aussi des articles sur plusieurs sites Internet dont Tunisnews et Kantara. M. Boukhdir a fait l'objet d'une lettre d'allégations envoyée par le Rapporteur spécial sur l'indépendance des juges et des avocats et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression le 12 décembre 2007. Selon les nouvelles informations reçues :

2534. Depuis son incarcération à la prison de Sfax, M. Boukhdir aurait contracté la gale en raison de conditions de détention précaires, notamment l'insalubrité de sa cellule et la privation de douche depuis un mois et demi, et les soins fournis par les autorités

pénitentiaires s'avèreraient insuffisants. Par ailleurs, il est allégué que les provisions que l'épouse de M. Boukhdir lui apporterait seraient confisquées par les autorités pénitentiaires. Enfin, l'avocat de M. Boukhdir et la famille ne seraient plus autorisés à lui rendre visite depuis mi-avril 2008.

2535. Des craintes sont exprimées pour l'intégrité physique et mentale de M. Boukhdir. D'autres craintes sont exprimées quant au fait que les mauvais traitements dont serait victime M. Boukhdir soient liés à ses activités non-violentes de protection des droits de l'homme, en particulier dans l'exercice de son droit à la liberté d'opinion et d'expression.

### **Appel urgent**

2536. Le 7 août 2008, la Rapporteuse Spéciale sur la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé un appel urgent sur la situation de M. **Abderraouf Ayadi**, avocat, ancien membre du Conseil de l'Ordre des avocats et ancien secrétaire général du Conseil National pour les Libertés en Tunisie (CNLT). M. Ayadi a été l'objet de plusieurs communications envoyées par la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur la torture le 13 novembre, le 27 juillet, le 4 mai 2007, le 11 novembre, le 21 octobre, le 12 mai et le 25 janvier 2005. Selon les nouvelles informations reçues :

2537. Le 2 août 2008, M. Abderraouf Ayadi aurait été violemment agressé par le directeur de la prison Mornagia, M. Ibrahim Mansour. M. Ayadi terminait une visite de son client, M. Mohamed Hédi Ben Said, quand le directeur de la prison a exigé de passer à la fouille sa serviette. M. Ayadi l'a refusé. Le directeur de la prison se serait ensuite jeté sur lui, aurait arraché de force sa serviette et confisqué son téléphone portable, avec l'aide de trois de ses agents. M. Abderraouf Ayadi souffre d'une entorse au poignet droit, ainsi que d'hématomes sur le corps. Dans la suite, M. Ayadi a porté plainte et le barreau a publiquement dénoncé cette agression.

2538. Des préoccupations sont exprimées quant au fait que les actes de harcèlement répétés contre M. Ayadi soient liés à ses activités non-violentes de promotion et protection des droits de l'homme, et s'inscrivent dans un contexte d'intimidation et de répression systématique à l'encontre des avocats défenseurs de droits de l'homme.

### **Lettre d'allégations**

2539. Le 22 août 2008, la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une lettre d'allégations sur la situation de Mme **Sihem Bensedrine**, journaliste, porte-parole et fondatrice du Conseil national pour les libertés en Tunisie, secrétaire générale de l'Observatoire pour la liberté de presse et lauréate du Prix de la Paix 2008 décerné par la Fondation danoise pour la

paix. Mme Bensedrine a fait l'objet d'une lettre d'allégation envoyée par l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur la torture le 16 avril 2008. Le Gouvernement a envoyé une réponse le 13 juin 2008. Selon les nouvelles informations reçues :

2540. Le 19 août 2008, Mme Sihem Bensedrine aurait été empêchée par la police des frontières de l'aéroport Tunis Carthage et la police politique d'embarquer pour le vol Tunis-Vienne. Dans un premier temps, ses effets et documents personnels auraient été fouillés méticuleusement dans la salle d'embarquement. Puis, les agents de police des frontières lui auraient intimé l'ordre de les suivre sans toutefois donner une raison spécifique. Devant son refus, plusieurs hommes en civil appartenant supposément à la police politique auraient pris la relève des agents de la police des frontières. Une heure plus tard, une fois la salle d'embarquement vide, une autre équipe de la police politique serait arrivée et aurait menacé Mme Sihem Bensedrine d'interdiction de quitter le territoire si elle n'obtempérerait pas. Son avion ayant décollé, les agents de la police politique se seraient rués sur elle, la brutalisant et la bousculant jusqu'à ce qu'elle tombe à terre. Les agents auraient alors jeté au loin son sac à dos contenant son ordinateur portable, son sac à main et son passeport et l'auraient insulté et ordonné de regagner son domicile.

2541. De sérieuses préoccupations sont exprimées quant au fait que les actes d'harcèlement susmentionnés à l'égard de Mme Sihem Bensedrine seraient liés à ses activités non-violentes de promotion et protection des droits de l'homme.

### **Lettre d'allégations**

2542. Le 27 août 2008, la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants et la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, a envoyé une lettre d'allégations concernant Mme **Zakia Dhifaoui**, membre de l'Association de lutte contre la torture en Tunisie, de la section de Kairouan de la Ligue tunisienne des droits de l'Homme et du Forum démocratique pour le travail et les libertés; M. **Abdelaziz Ahmadi**, enseignant; M. **Mammar Amidi**, instituteur; M. **Fawzi Al Mas**, technicien; M. **Abdessalem Dhaouadi**, enseignant; M. **Kamel Ben Othmane**, enseignant et M. **Nizar Chebil**, ouvrier. Mme Zakia Dhifaoui a fait l'objet d'un appel urgent envoyé par l'ancien Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur la torture et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 19 octobre 2005. Selon les informations reçues :

2543. Le 27 juillet 2008, Mme Zakia Dhifaoui, MM. Abdelaziz Ahmadi, Mammar Amidi, Fawzi Al Mas, Abdessalem Dhaouadi, Kamel Ben Othmane et Nizar Chebil

auraient participé à Redeyef à une manifestation présentée comme pacifique dont le but était de dénoncer des actes de répression, notamment des arrestations, de la part des forces de l'ordre à l'encontre des habitants du bassin minier de Redeyev. Mme Zakia Dhifaoui aurait pris la parole au cours de cette manifestation.

2544. Le 14 août 2008, Mme Zakia Dhifaoui aurait été condamné par le Tribunal de première instance de Gafsa à huit mois de prison ferme pour « insubordination, troubles de l'ordre public, entraves à un fonctionnaire dans l'exercice de ses fonctions, détérioration des biens d'autrui et atteinte aux bonnes mœurs ». MM. Abdelaziz Ahmadi, Mammam Amidi, Fawzi Al Mas, Abdessalem Dhaouadi, Kamel Ben Othmane et Nizar Chebil auraient, quant à eux, été condamnés pour les mêmes charges à six mois de prison ferme.

2545. Des accusations de harcèlement sexuel et de menace de viol auraient été formulées au cours du procès par Mme Zakia Dhifaoui à l'encontre du chef du district policier de Gafsa, mais celles-ci n'auraient pas été retenues. De même, MM. Abdelaziz Ahmadi, Mammam Amidi, Fawzi Al Mas, Abdessalem Dhaouadi, Kamel Ben Othmane et Nizar Chebi auraient accusé ce même chef de leur avoir extorqués des aveux sous la torture, ce qui n'aurait également pas été pris en compte par le tribunal.

2546. Des craintes sont exprimées quant au fait que les condamnations de Mme Zakia Dhifaoui et MM. Abdelaziz Ahmadi, Mammam Amidi, Fawzi Al Mas, Abdessalem Dhaouadi, Kamel Ben Othmane et Nizar Chebil soient liées à leurs activités non-violentes de protection et promotion des droits de l'homme, et ce dans l'exercice de leur droit à la liberté d'opinion et d'expression ainsi que le droit de se rassembler pacifiquement.

### **Réponse du Gouvernement**

2547. Par une lettre datée du 26 janvier 2009, le Gouvernement a indiqué que les prévenus Zakia Dhifaoui, Abdelaziz Ahmadi, Mammam Amidi, Fawzi Al Mas, Abdessalem Dhifaoui, Kamel Ben Othmane et Nizar Chebil ont tenté, sur le fond de certains troubles enregistrés dans la région de Gafsa, de transformer le mouvement de contestation pacifique en une véritable rébellion comme l'indique les actes d'agression et de voies de fait contre les agents de l'ordre ainsi que l'installation de barricades sur les voies publiques. Il est établi que les prévenus susvisés avaient pris, dans ce cadre, le 27 juillet 2008, la tête d'une manifestation au cours de laquelle ils ont procédé à l'obstruction de la voie publique devant toute circulation en y dressant des barricades par l'utilisation de pneus, de vide-ordures et de grosses pierres. Les forces de l'ordre, intervenant pour rouvrir la voie publique à la circulation et assurer la sécurité des personnes et des biens, avaient essuyé des jets de pierres et des coups de bâtons. Une voiture de police a été gravement endommagée (vitres brisées et traces de coups de pierres sur la tôle). La sécurité publique s'était trouvée de ce fait gravement menacée. Contrairement à ce qui est allégué, les suspects, appréhendés en flagrant délit, n'ont subi aucune forme de mauvais traitement lors de leur arrestation. Ils ont été conduits au siège de la police judiciaire où ils ont été interrogés sur les faits qui leur sont reprochés. Le

procureur de la République a été immédiatement avisé de l'enquête ainsi que de la mise des prévenus en garde à vue conformément à l'article 13 bis du Code de procédure pénale. Après clôture de l'enquête préliminaire, les prévenus ont été déférés au parquet qui a décidé d'émettre des mandats de dépôt à leur encontre et de les renvoyer devant la chambre correctionnelle pour répondre des chefs d'inculpation qui leur sont reprochés. Il est à noter que les prévenus ont avoué lors de leurs interrogatoires avoir procédé à l'obstruction de la voie publique devant la circulation et jeté des pierres sur une voiture des forces de l'ordre. Le procès s'est tenu publiquement devant le tribunal de première instance de Gafsa. Il a été procédé à l'interrogatoire d'usage des prévenus en présence de leurs avocats. Contrairement à ce qui est allégué, le tribunal n'a nullement refusé de consigner les allégations de mauvais traitement des prévenus dans les procès verbaux d'audience, ceux-ci font état d'allégations se rapportant à des aveux extorqués sous la contrainte, outre des soi-disant menaces de viol qui auraient été proférées contre Zakia Dhifaoui. Le tribunal a ensuite recueilli les plaidoiries des avocats. Après délibéré, le tribunal de première instance de Gafsa a déclaré les prévenus coupables des faits qui leur sont reprochés. Zakia Dhifaoui a été condamné à huit mois d'emprisonnement ; Abdelaziz Ahmadi, Mamar Amidi, Fawzi Al Mas, Abdessalem Dhaouadi, Kamel Ben Othmane et Nizar Chebil ont été condamnés quant à eux à six mois d'emprisonnement. Sur exercice de leur droit d'appel, les prévenus ont été de nouveau jugés par la Cour d'appel de Gafsa qui a décidé un non-lieu pour l'ensemble des prévenus des chefs d'inculpation de rébellion commise par plus de dix personnes non armées, outrage à fonctionnaire public à l'occasion de l'exercice de ses fonctions et atteinte publique aux bonnes mœurs. S'agissant des autres chefs d'inculpation, la Cour d'appel a décidé de ramener la peine de Zakia Dhifaoui de 8 mois à 4 mois et demi d'emprisonnement. Quant aux autres prévenus, ils ont bénéficié de réduction de peine. Fawzi Al Mas, Mamar Amidi et Abdessalem Dhaouadi ont vu leur peine réduite à 3 mois d'emprisonnement ; Abdelaziz Ahmadi, Kamel Ben Othmane et Nizar Chebil ont bénéficié d'un sursis à l'exécution. Les prévenus ont attaqué par voie de cassation le jugement de condamnation rendu à leur encontre. Le pourvoi a été rejeté en la forme ; les avocats des prévenus s'étant limités à présenter leurs pourvois sans les accompagner des mémoires indiquant les moyens du pourvoi et les griefs à l'encontre de la décision attaquée comme l'exige l'article 263 bis du Code de procédure pénale. Le jugement de condamnation est ainsi passé en force de chose jugée. Le 5 novembre 2008, Zakia Dhifaoui a bénéficié d'une libération conditionnelle décidée par le juge d'application des peines. Les autres prévenus ont également été libérés, soit après avoir purgé leurs peines, soit en vertu du sursis à l'exécution accordé à certains d'entre eux.

### **Appel urgent**

2548. Le 5 septembre 2008, la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, conjointement avec la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent concernant la situation de M. **Tarek Soussi**, membre de l'Association internationale de soutien aux prisonniers politiques. Selon les informations reçues :

2549. Le 27 août 2008, une dizaine de policiers en civil auraient interpellé M. Soussi à son domicile à Bizerte et l'auraient conduit vers un lieu inconnu. L'arrestation de M. Soussi ferait suite à son intervention par téléphone sur la chaîne de télévision satellitaire Al-Jazira au cours de laquelle il avait dénoncé l'interpellation abusive de sept individus.

2550. Des craintes sont exprimées quant au fait que l'arrestation de M. Soussi soit liée à l'exercice de son droit à la liberté d'opinion et d'expression. En raison de la détention incommunicado de M. Soussi, des craintes sont également exprimées pour son intégrité physique et psychologique.

### **Réponse du Gouvernement**

2551. Par une lettre datée du 12 janvier 2009, le Gouvernement a indiqué que les investigations faites à la lumière des déclarations de M. Tarak Soussi ont révélé que les personnes visées dans l'interview de celui-ci sont des membres actifs d'une cellule terroriste ayant pour but de porter atteinte aux personnes et aux biens ; que les dites personnes faisaient l'objet de poursuites judiciaires confiées à l'un des juges d'instruction près du tribunal de première instance de Tunis ; que le parquet avait été immédiatement avisé de l'enquête préliminaire, menée par la police judiciaire contre lesdits individus ainsi que de leur mise en garde à vue et ce conformément aux dispositions de l'article 13 bis du Code de procédure pénale ; que les procès-verbaux d'audition des prévenus par la police judiciaire font état de la notification aux familles de la mesure de garde à vue décidée à l'encontre de leurs proches ainsi que du lieu de leur détention ; et que chacun des prévenus a expressément déclaré, lors de son interrogatoire par le juge d'instruction, que la mesure de garde à vue a été notifiée à leurs proches, ceux-ci s'étaient même déplacés sur place. Une enquête préliminaire a donc été ouverte à l'encontre de M. Tarak Soussi aux fins de procéder à tous les actes nécessaires à la manifestation de la vérité. L'allégation selon laquelle « une dizaine de policiers en civil auraient interpellé M. Tarak Soussi à son domicile à Bizerte et l'auraient conduit vers un lieu inconnu » est totalement erronée. Après clôture de l'enquête préliminaire, M. Tarak Soussi a été déféré au parquet et une instruction préparatoire à son encontre a été ouverte du chef de diffusion de fausses nouvelles de nature à troubler l'ordre public conformément à l'article 49 du Code de la presse. Le juge d'instruction a décidé, après interrogatoire du prévenu, de le mettre en détention préventive, conformément à l'article 85 du Code de procédure pénale. M. Tarak Soussi a sollicité, par le biais de son avocat, sa remise en liberté provisoire. Le juge d'instruction n'ayant pas donné suite à la demande, l'intéressé a saisi la chambre d'accusation en application de l'article 87 du Code de procédure pénale. Celle-ci a décidé, le 25 septembre 2008, de remettre l'inculpé en liberté jugeant ainsi que cette mesure n'est pas de nature à entraver le déroulement normal de l'instruction. Une fois la procédure achevée, le juge d'instruction a décidé de déférer M. Tarak Soussi devant la juridiction compétente pour répondre du chef de diffusion de fausses nouvelles de nature à troubler l'ordre public conformément à l'article 49 du Code de la presse. L'intégrité physique et morale de M. Tarak Soussi durant la période de sa détention a été respectée et ce, conformément aux dispositions aux dispositions de l'alinéa 2 de l'article 13 de la Constitution tunisienne. Le prévenu a bénéficié durant la période de son arrestation de tous les soins médicaux nécessaires et ce gratuitement. Dès son admission en prison, il a

bénéficié d'une visite médicale afin de faire un bilan global de son état de santé et déterminer, le cas échéant, s'il avait des besoins de soins spécifiques.

### **Lettre d'allégations**

2552. Le 5 novembre 2008, la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une lettre d'allégations concernant la situation de Mme **Naziha Rjiba (alias Om Zied)**, écrivaine, journaliste, vice-présidente de l'Observatoire pour la défense des libertés de la presse, de l'édition et de la création (OLPEC), membre fondatrice du Conseil national pour les libertés en Tunisie (CNLT) et rédactrice en chef du journal en ligne Kalima. Mme Rjiba a fait l'objet d'un appel urgent envoyé par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et par l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 26 juillet 2006 et d'un appel urgent envoyé par l'ancienne Représentante spéciale du Secrétaire général sur les défenseurs des droits de l'homme le 31 décembre 2003. Le Gouvernement a envoyé ses réponses respectivement le 13 juin 2008 et le 30 janvier 2004. Selon les nouvelles informations reçues :

2553. Le 27 octobre 2008, Mme Naziha Rjiba aurait comparu devant le procureur de la République suite à un article intitulé « Il ont attaqué Kalima » paru dans le journal Muwatinoun dans son édition du 22 octobre 2008. Dans cet article, Mme Rjiba aurait dénoncé la récente attaque dont aurait fait l'objet le serveur qui hébergeait Kalima et serait revenue sur le fait que Kalima soit censuré depuis sa création.

2554. Par ailleurs, selon les informations reçues, le numéro 77 de Muwatinoun aurait été saisi en imprimerie pour avoir publié « des allégations contrevenant à la loi », « en application de l'article 73 du Code de la presse » et que « le dossier a été transmis au Ministère public ». Cette saisie serait en lien avec l'article signé par Mme Rjiba. Le directeur du journal n'aurait reçu aucune notification de saisie.

2555. Des craintes sont exprimées quant au fait que les poursuites judiciaires dont ferait l'objet Mme Rjiba soient liées à ses activités de défense des droits de l'homme.

### **Observations**

2556. La Rapporteuse spéciale remercie le Gouvernement de ses réponses mais regrette, au moment de la finalisation du présent rapport, l'absence de réponse aux communications en date du 24 novembre 2006, 4 mai 2007, 2 novembre 2007, 14 janvier, 6 mars, 10 avril, 6 juin, 7 août, 22 août et 5 novembre 2008 et exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celles-ci.

2557. La Rapporteuse spéciale reste notamment préoccupée par les restrictions imposées aux libertés de réunion et d'association et rappelle au Gouvernement que l'article 5 dispose qu' « afin de promouvoir et protéger les droits de l'homme et les libertés



fondamentales, chacun a le droit, individuellement ou en association avec d'autres, aux niveaux national et international : a) De se réunir et de se rassembler pacifiquement ; b) De former des organisations, associations ou groupes non-gouvernementaux, de s'y affilier et d'y participer ; c) De communiquer avec des organisations non-gouvernementales ou intergouvernementales ».

2558. La Rapporteuse spéciale espère que le Gouvernement répondra favorablement à sa demande de visite formulée en novembre 2008 afin de renforcer le dialogue avec les autorités.

## Turkey

### Letter of allegations

2559. On 19 February 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegations to the Government concerning Mr **Orhan Kemal Cengiz**, a lawyer, human rights defender and newspaper columnist, who is currently working on the case of three men killed at the Zirve Christian publishing house on 18 April 2007. The mandate-holders also drew the Government's attention to information they had received in relation to the killing of Mr Hrant Dink, who was a Turkish journalist of Armenian origin and an activist for democratic reform.

2560. According to information received, in November 2007, an article published in a local newspaper in the province of Malatya reportedly included details that could only have been learnt through the interception of Mr Orhan Kemal Cengiz's telephone calls and e-mails concerning the aforementioned case. He later learned that a letter had been sent to the Malatya prosecutor accusing him of involvement in the murders. The letter also contained other false and defamatory information, the intention of which was reportedly to make him a target. In January 2008, Mr Orhan Kemal Cengiz received a letter which contained both veiled and direct threats to his safety, which may have had the same origin as the letter to the Malatya prosecutor

2561. Reports inform that Mr Orhan Kemal Cengiz had requested that authorities provide a bodyguard to protect him, but that this request has not yet been granted. He had reportedly been threatened and intimidated on a number of occasions, intensifying since November 2007, when the trial of those accused of killing the three men at the Zirve publishing house in Malatya began.

2562. The mandate-holders further referred to the case of the killing of Mr Hrant Dink, who was shot dead on the street in front of his office in Istanbul on 19 January 2007. Mr Dink had also reported death threats to the police on numerous occasions, who had allegedly been aware of a plan to assassinate him for some months prior to his death.

2563. Concern was expressed that the intimidation of and threats made against Mr Oran Kemal Cengiz may be directly related to his work in defence of human rights, particularly on behalf of the three men killed in the aforementioned case. Serious concern was further expressed for Mr Oran Kemal Cengiz's physical and psychological integrity.

### **Response from the Government**

2564. In letters dated 27 February, 25 March and 24 April 2008, the Government responded to the above urgent appeal. These letters confirmed that Mr. Orhan Kemal Cengiz lodged a complaint with the authorities, claiming that his telephone calls and emails were intercepted in order to influence the judiciary through misinformation on the case concerning the murder of the three employees of Zirve Publishing House in Malatya. The complaint was referred to the relevant for investigation, along with the request for security measures to be taken, as deemed appropriate to prevent any act of reprisal or retaliation. The investigation into threats against Mr. Orhan Kemal Cengiz had begun. Mr. Orhan Kemal Cengiz was provided with close protection whereby a law enforcement official was instructed to ensure his personal security in accordance with the Regulation on Protection Services.

2565. The first letter communicated that the Office of the Public Prosecutor of Malatya received an anonymous letter accusing Mr. Orhan Kemal Cengiz of involvement in the murder. However, the second letter confirmed that the trial of eighteen persons accused of murdering Hrant Dink had begun before the 14th Heavy Penal Court of Istanbul. Eight people had been arrested pending trial.

### **Letter of allegations**

2566. On 11 March 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning the situation of human rights defenders in Turkey, including Ms **Nalam Erkem**, a lawyer and human rights defender, and formerly an active member of the "Torture Prevention Group" of the Izmir Bar Association, Messrs **Kiraz Bicici** and **Ridvan Kizgin**, vice president and board member respectively of the Human Rights Association and Ms **Türkiye Bozkurt** and Ms **Behiye Duman**, both members of the Peace Mothers, an organization which opposes the conflict between Turkish Armed Forces and the Kurdistan Workers' Party (PKK).

2567. According to information received, Ms Nalem Erkem is currently being tried for "misconduct in Office," reportedly as a result of her public disclosure of torture and mistreatment of children detained at the local Buca prison, while a member of the now defunct Torture Prevention Group.

2568. An Appeal Court in Bingol had recently upheld a Criminal Court verdict sentencing Mr Ridvan Kizgin to 2 years and 6 months in prison. Mr Kizgin had been convicted of offences under Article 281/1, 'hiding criminal evidence'. The charges had reportedly been brought in connection with of a report regarding the killing of 5 villagers

in a village in Bingol. On 3 March 2008, Mr Kizgin was transferred to Bingol (M Type) Closed Prison to begin his custodial sentence. Two other cases against Mr Kizgin were reportedly pending appeal. Mr Kiraz Bicici was also appealing a 5 month suspended prison sentence and fine of 1.350 lira handed down by Bingol Criminal Court to both he and Ridvan Kizgin on 14 November 2006.

2569. Both of the aforementioned men were convicted of offenses under article 301 of the Turkish Penal Code (article 159/1 of the former Penal Code) which stipulates that (i) public denigration of Turkishness, the Republic or the Grand National Assembly of Turkey shall be punishable by imprisonment of between six months and three years, and that (ii) public denigration of the Government, the judicial institutions, the military or security structures shall be punishable by imprisonment of between six months and two years.

2570. On 14 February 2008, Ms Türkiye Bozkurt and Ms Behiye Duman were remanded to police custody after attempting to make a press statement in Taksim, central Istanbul. The two women were detained for six hours before being released. It is not known whether any charges were brought against them.

2571. Concern was expressed that these arrests, trials and convictions may be directly related to the activities of the aforementioned individuals in defense of human rights, particularly their exercise of the right to freedom of expression. Further concern was expressed for legislation which may seek to curb freedom of assembly and expression.

### **Response from the Government**

2572. In a letter dated 2 April 2008, the Government responded to the communication sent on 11 March 2008. The Government stated that in the communication Turkey's legitimate fight against terrorism is, regretfully, referred to as "the conflict between Turkish Armed Forces and the Kurdistan Worker's Party". The Government stated that such a terminology is erroneous and unacceptable. Firstly, PKK-KONGRA-GEL is a terrorist organization, not a political party. It is included in the list of foreign terrorist organizations of many countries and inter-governmental organizations such as the EU and NATO.

2573. The Government also noted that it was also difficult to understand why the legitimate struggle by the security forces of a State against terrorists in order to protect the very basic human right, the right to life of its citizens had been defined as a "conflict". The Government further informed that it would be only possible for the authorities to consider the letter after the above-mentioned references had been duly corrected.

### **Letter of allegations**

2574. On 17 April 2008, the then Special Representative sent a letter of allegations to the Government concerning the **Lambdaistanbul Cultural Center**, an organisation

advocating the rights of lesbian, gay, bisexual and transgender (LGBT) persons in Turkey.

2575. According to the information received, on the afternoon of 7 April 2008, approximately a dozen plainclothes policemen entered the Lambda Istanbul Cultural Centre with a search warrant. The search of the premises lasted approximately two hours, during which time the entire office was examined and the identity cards of all those who were present or entered the Center were collected. Documents and files concerning the financial and membership structure of the organization were confiscated by the officers when they left.

2576. Reports indicated that the search may have taken place as a result of a complaint filed, accusing the organization of participation in illegal prostitution and procurement of sex workers. It was also reported that the Cultural Center had been under observation by the authorities, who had been taking note of those entering and leaving the building. The association was also in the midst of legal proceedings to apply for official status as an organization, reportedly following a complaint by the city governorship that Lambda should be closed down as the group constituted a threat to Turkish family values and public decency. The fifth hearing was reportedly scheduled for April 17.

2577. Concern was expressed that the aforementioned events may be directly related to the activities of the Lambda Istanbul Cultural Center in defense of human rights, particularly the rights of LGBT persons and further concern was expressed for the physical and psychological integrity of its members.

### **Response from the Government**

2578. In a letter dated 26 May 2008, the Government responded to the communication sent on 17 April 2008 concerning the “Lambda Istanbul LGBT Solidarity Association”. The Government reported that on 18 March 2008, a complaint was lodged against the “Lambda Istanbul LGBT Solidarity Association”, claiming that its administrators have been involved in illegal prostitution through the activities of the association.

2579. The Public Order Division of the Directorate for Security of Istanbul conducted a preliminary inquiry in connection with the allegations. On the basis of the report prepared by the Public Order Division officers following the inquiry, a request for warrant to search the premises of the above-mentioned association was made to the Office of the Chief Public Prosecutor of Beyoglu, which was conveyed to the Beyoglu 2<sup>nd</sup> Criminal Court of Peace. The Court issued a search warrant on 7 April 2008 under Articles 116 and 119 of the Criminal Procedure Code.

2580. Article 116 of the Criminal Procedure Code allows for the law enforcement authorities to search the premises of a suspect if there are reasonable grounds to believe that an evidence of the crime might be obtained. Article 119 stipulates the legal procedure to be followed for a search warrant.

2581. On 7 April 2008 the search was carried out in the premises of the “Lambda Istanbul LGBT Solidarity Association” in accordance with the court’s decision. The lawyer of the Association filed an appeal with the Beyoglu 9<sup>th</sup> Criminal Court of First Instance against the search warrant on 14 April 2008. Having considered the appeal, the court decided (Decision No. 2008/81) that there were no grounds for correcting the previous court decision.

2582. The Government noted that the legal proceeding concerning the deficiencies and irregularities in the Statue of the Association is pending before the Beyoglu 3<sup>rd</sup> Civil Court of First Instance. On 30 October 2007, the Court instructed an expert witness, who is examining the case file.

### **Letter of allegations**

2583. On 19 August 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning excessive use of force by police officers against Mr **Ethem Açıkalın** and Mr **Hüseyin Beyaz**. Mr Ethem Açıkalın is the President of the İnsan Hakları Derneği (IHD - Human Rights Association) and Mr Hüseyin Beyaz is an administrator for the IHD.

2584. Messrs Ethem Açıkalın and Hüseyin Beyaz were the subject of a letter of allegations sent by the then Special Representative of the Secretary-General on the situation of human rights defenders and the former Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 11 September 2007. A response from your Government was received on 8 January 2008.

2585. According to new information received, on 14 August 2008, Messrs Ethem Açıkalın and Hüseyin Beyaz went to the offices of the Democratic Society Party (DTP) in Andana to observe potential human rights violations. The IHD had received a telephone call about the detention of several DTP administrators that morning and raids that were expected to be carried out on the DTP offices. When asked what they were doing there by members of the police, the IHD members responded that they were preparing a public report about the detentions. An argument ensued and the police officers attacked the IHD members, pushing them down the stairs of the building and thereby breaking the arm of Mr Hüseyin Beyaz. A medical report later confirmed that Mr Hüseyin Beyaz’s arm had been broken.

2586. Afterwards, the Andana Police filed a complaint against the IHD members for failing to cooperate with police officers. The Andana Branch of the IHD has also filed a criminal complaint against the police officers.

2587. Concern was expressed that the members of the IHD were prevented from carrying out their legitimate activities in the defense of human rights through excessive use of force on the part of police officers.

### **Response from the Government**

2588. In letters dated 22 September 2008 and 5 January 2009, the Government responded to the communication sent on 19 August 2008.

2589. The Government reported that on 13 August 2008, the Heavy Penal Court No. 8 in Adana issued a warrant, authorizing the officials of the Directorate for Security to conduct a search in the premises of the Provincial Office of the “Democratic Society Party”(DTP).

2590. On 14 August 2008, the law enforcement officials arrived at the premises of the DTP and waited for the lawyer of the DTP and mukhtar in order to carry out the search. The officials asked Ethem Acikalin, who was then at the entrance of the building with another person, as to which capacity they would be present during the search. They responded that they would observe the “raid”. The officials explained that there would not be any “raid” in the premises and that they were there to execute a search warrant issued by the Court. The officials asked the President of DTP Provincial Office, Mehmet Zeki Karatas whether Ethem Acikalin in any way represented the DTP in this proceeding. He confirmed that Ethem Acikalin did not have any connections with the DTP. Therefore the officials requested him to leave the premises. Ethem Acikalin refused to leave and was forced to leave the building by the officials.

2591. The law enforcement officials immediately informed the prosecutor on duty about the events that took place on 14 August 2008. In accordance with the instructions of the prosecutor, an investigation was initiated against Ethem Acikalin. Husein Beyaz lodged a complaint with the Office of the Chief Prosecutor of Adana, alleging that his arm was broken by the law enforcement officials during the events. An investigation was initiated by the Prosecutor in connection with this complaint.

2592. Subsequently, a case was initiated against three law enforcement officials upon the indictment issued by the Chief Public Prosecutor in Adana on 25 November 2008 on the charge of causing Husein Beyaz to sustain injuries by negligence. This trial is underway in the First Penal Court of Peace in Adana.

### **Observations**

2593. The Special Rapporteur wishes to thank the Government for providing responses to all her communications. The Special Rapporteur is encouraged that in the case of Mr **Orhan Kemal Cengiz**, investigations have begun and that in the meantime close protection had been provided to ensure his personal safety.

2594. The Special Rapporteur reiterates her concern regarding the charges and legal proceedings against the **Lambdaistanbul Cultural Center**, and requests the Government to submit additional information when it becomes available.

## Turkmenistan

### Urgent appeal

2595. On 29 May 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning Mr **Valery Pal**, a social activist in the city of Turkmenbashi. Mr Pal has cooperated with various non-governmental organizations and also participated in numerous human rights programs in Turkmenistan. In 1993, Mr Pal participated in a campaign to protest the renaming of Krasnovodsk to Turkmenbashi.

2596. According to information received, on 14 May 2008, Mr Pal was reportedly sentenced to 12 years in prison to be served at a maximum-security penal colony. It was believed that Mr Pal had been sentenced in connection with charges brought following his detention by police in the city of Turkmenbashi on the night of 21 February 2008.

2597. The arrest was reportedly on suspicion of theft in 2004 from the oil refinery he worked at. However, it was alleged that these charges may have been fabricated and might be connected to Mr Pal's social activism and his knowledge of corrupt practices at the refinery. Mr Pal pleaded innocent. During the proceedings the court allegedly dismissed all allegations made by the defense counsel of judicial misconduct and violation of due process.

2598. There were serious concerns for Mr Valery Pal's health as he suffers from chronic prostatitis. He also suffered a stroke in 2004, which left him partially paralyzed and requires him to receive regular medical treatment and exercise. On 20 March 2008, an ambulance was called to the detention facility to attend to Mr Pal, who was reportedly suffering from chest pains and high blood pressure.

2599. Concern was expressed that the arrest and conviction of Mr Valery Pal might be directly related to his activities in defense of human rights in Turkmenbashi. In light of reports of his ill-health and allegations of inadequate medical treatment, serious concern was expressed for Mr Pal's immediate physical and psychological integrity.

### Urgent appeal

2600. On 17 October 2008, the Special Rapporteur, together with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health sent an urgent appeal concerning Mr **Valery Pal**, a social activist in the city of Turkmenbashi. Mr Pal has cooperated with various non-governmental organizations and also participated in numerous human rights programs in Turkmenistan. Mr Valery Pal had been the subject of an urgent appeal, sent on 29 May 2008 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights defenders. No reply has yet been received to this communication.

2601. According to the new information received, on 24 September 2008, Mr Valery Pal suffered a heart attack. His heart attack reportedly followed news that despite previous indications he had not been included on the list of persons being released under a presidential amnesty.

2602. There are serious concerns for Mr Valery Pal's health as he suffers from chronic prostatitis. He also suffered a stroke in 2004, which left him partially paralyzed and requires him to receive regular medical treatment and exercise. On 20 March 2008, an ambulance was called to the detention facility to attend to Mr Pal, who was reportedly suffering from chest pains and high blood pressure.

2603. Mr Pal was sentenced on 14 May 2008 to 12 years in prison to be served at a maximum-security penal colony. It is believed that Mr Pal was sentenced in connection with charges brought following his detention by police in the city of Turkmenbashi on the night of 21 February 2008.

2604. The arrest was reportedly on suspicion of theft in 2004 from the oil refinery he worked at. However, it is alleged that these charges may have been fabricated and may be connected to Mr Pal's social activism and his knowledge of corrupt practices at the refinery. Mr Pal pleaded innocent. During the proceedings the court allegedly dismissed all allegations made by the defense counsel of judicial misconduct and violation of due process.

2605. In light of reports of his ill-health and allegations of inadequate medical treatment, serious concern was expressed for Mr Pal's immediate physical and psychological integrity.

### **Observations**

2606. The Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted any replies to her communications of 29 May 2008 and 17 October 2008. She considers response to her communications as an important part of the cooperation of Governments with her mandate, and urges the Government to respond to the concerns raised by her.

2607. The Special Rapporteur welcomes the release of Mr Valery Pal from custody as part of the amnesty on 6 December 2008. At the same time, she remains deeply concerned at the severe restrictions on the freedom of expression, association and movement in the country, which significantly restricts the work of human rights defenders.

## **Uganda**

### **Letter of allegations**



2608. On 12 August 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent a letter of allegations on the situation of **Usaam “Auf” Mukwaya, Onziema Patience, Valentine Kalende, and Julian “Pepe” Onziema**, all members of Sexual Minorities Uganda (SMUG), a local organization advocating on behalf of Uganda’s lesbian, gay, bisexual, and transgender (LGBT) people and on HIV/AIDS issues in Uganda; and **Nikki Mawanda**, programme coordinator of Transgender, Intersex, Transsexual (TIT), an organization that supports the needs of transgender, transsexual, and intersex Ugandans. According to the allegations received:

2609. On 4 June 2008, police arrested Usaam Mukwaya, Onziema Patience, and Valentine Kalende in Kampala, after a protest at the 2008 “HIV/AIDS Implementers Meeting.” The activists were protesting against statements made by Kihumuro Apuuli, director general of the Uganda AIDS Commission, who on 2 June declared that “gays are one of the drivers of HIV in Uganda, but because of meager resources we cannot direct our programmes at them at this time.”

2610. Police took the three activists to the Jinja Road Police Station and detained them until 6 June. Authorities finally released the activists on bail after charging them with criminal trespass, under Section 302 of the Uganda Penal Code, despite the fact that sponsors of the Implementers Meeting had invited the activists to attend the conference.

2611. The defendants last appeared before a Kampala court on 25 July, where several witnesses of the State (mainly police officers) and the defendants were cross-examined. The judge adjourned the hearing until 1 August. At previous hearings held on July 9 and 10, the judge adjourned the case following the public prosecutor’s request to give police additional time to locate new witnesses.

2612. After the court hearing, a patrol car stopped the taxi Mukwaya was riding in and four men identifying themselves as police officers, three of them with uniforms and the fourth with plain clothes, detained him and put him in the police’s pickup truck. The police officers drove towards Jinja Road where a civilian car with tinted screens was waiting for them parked in front of Shoprite. Police officers forced Mukwaya into the other car with three other policemen; two wore suits and one wore a police uniform. The men drove around for about 30 minutes and took Mukwaya to an undisclosed location. Two female and one male police officer were waiting. The police confiscated Mukwaya’s mobile phone, which contained contact names and numbers of members of SMUG and other LGBT rights organizations. The police asked Mukwaya if he was Nikki, when he said he was not they asked him his name. The three police officers then pushed him through a dark corridor into a room where they made him sit on a chair. Mukwaya, 26, saw four other men around his age in the room. One had a broken leg and the other three appeared to have been beaten. One of the women officers scraped his knuckles with a razor-like object. His abductors asked him questions in Luganda, a local language, about the activists’ funders and supporters, and about his own role “among the homosexuals.” They also demanded information about Pepe and Nikki. They demanded the address of

the SMUG office, as well as the residence and office of Mukwaya's lawyer. Before dawn, they forced him to strip to his underwear, asked him if he was a man or a woman, and made him walk around the room in his underwear. In the room, there was a machine that suspended above a cushioned bench, and a prisoner's arms are restrained by extensions alongside the device. As it is lowered by a switch, the extensions stretch the prisoner's arms. Mukwaya was ordered by a policeman to lie on the bench face-up, and threatened that he should provide information on the organization's source of funds. Mukwaya said nothing and his arms were stretched, leaving him with intense pain. After about 15 minutes, the machine was turned off and he was asked how much he was paid to be a homosexual. When he did not answer, they left him sleeping on the bench. The following day, 26 July, the police dropped Mukwaya off at Mulago round-about in central Kampala. On 28 July, activists accompanied Mukwaya to file an official complaint before the Uganda Human Rights Commission (UHRC). He also visited a doctor who documented the ill-treatment. On 29 July he went to the African Centre for Torture Victims (ACTV) to receive psychological support. As of today, police have not detained the people responsible for Mukwaya's torture.

2613. Concern was expressed that Usaam Mukwaya, Onziema Patience, Valentine Kalende, and Julian Onziema, and Nikki Mawanda may be at risk of torture or other forms of ill-treatment. Concern was also expressed in regard to the physical and psychological integrity of Usaam "Auf" Mukwaya. Further concerns were expressed that the arrests and detention of Usaam "Auf" Mukwaya, Onziema Patience, Valentine Kalende, Julian Onziema and Nikki Mawanda might be solely connected to the reportedly non-violent exercise of their right to freedom of opinion and expression, of assembly and of association

### **Urgent appeal**

2614. On 22 September 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal on the situation of **George Oundo** and **Kiiza Brendah**. George Oundo and Kiiza Brendah work as lesbian, gay, bisexual and transgender (LGBT) activists, promoting and protecting the rights of the lesbian, gay, bisexual and transgender community in Uganda. According to the information received:

2615. On 10 September 2008 George Oundo and Kiiza Brendah were arrested in the home of Oundo, in the village of Nabweru, Wakiso district, outside Kampala. The policemen removed gay literature from Oundo's home, and transferred them to Nalukologolo police station. On 11 September 2008 they were transferred to Nabweru police station, where they were subjected to extensive interrogation about lesbian, gay, bisexual and transgender (LGBT) human rights defenders. George Oundo and Kiiza Brendah were detained for seven days and released on 18 September 2008. They were held at the police station without charge and have not been brought before a court within the constitutional limit of 48 hours. Upon their release on 18 September they were ordered to present themselves at the police station again on 24 September 2008.

2616. Concern was expressed about the arrest and detention without charges of George Oundo and Kiiza Brendah. Concern was also expressed with regard to their physical and psychological integrity. Further concerns were expressed that the arrests and detention of George Oundo and Kiiza Brendah might be solely connected to the reportedly non-violent exercise of their right to freedom of opinion and expression, of assembly and of association.

### **Observations**

2617. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to the communications of 5 August 2005, 30 November 2007, 12 August 2008 and 22 September 2008. She considers response to her communications an important part of the cooperation of Governments with her mandate.

2618. The Special Rapporteur welcomes the end of the judicial proceedings against Usaam “Auf” Mukwaya, Onziema Patience, Valentine Kalende, and Julian “Pepe” Onziema. However, she remains concerned about the vulnerability of human rights defenders advocating for the rights of lesbian, gay, bisexual and transgender people in Uganda, and urges the Government of Uganda to create a safe environment conducive to their legitimate work.

## **United States of America**

### **Letter of allegations**

2619. On 22 July 2008, the Special Rapporteur sent a letter of allegations to the Government concerning Mr **Ali Al-Ahmed**, a consultant, writer, news commentator, and scholar. One of the focuses of his work is human rights violations in Saudi Arabia. The harassment of family members of Mr Ali Al-Ahmed was the subject of an urgent appeal sent by the then Special Representative of the Secretary General on the situation for human rights defenders to the Government of Saudi Arabia on 20 July 2006.

2620. According to information received, Mr Ali Al-Ahmed was not granted permanent residency, renewed travel authorization or renewed employment authorization in the United States of America despite meeting the full statutory requirements for all three applications to be approved. He made the applications in November 1999, on 5 March 2008, and on 14 June 2004 respectively. Mr Ali Al-Ahmed was granted asylum in the United States of America on 13 August 1998 and became eligible to apply for permanent residency one year afterwards. Being granted asylum also made him eligible for a Refugee Travel Document and Mr Ali Al-Ahmed made successful applications for this document in 2000, 2001 and 2002. Being granted asylum meant that Mr Ali Al-Ahmed required an Employment Authorization Document to work in the United States of America. He made successful applications for this document in 1996 and every year from 1998 until 2003.

2621. When he applied for permanent residency Mr Ali Al-Ahmed was told that his application would take 482 to 512 days to process. More than eight years later his application was still not processed. When he applied for his Refugee Travel Document he was told that his application would take approximately 235 to 265 days to process. More than five years later his application was still not processed. When he applied for his Employment Authorization Card he was told that his application would take approximately 80 days to process. More than four years later his application was still not processed.

2622. Not being able to travel adversely affected Mr Ali Al-Ahmed's ability to work. He was unable to attend conferences and meetings in other countries. Moreover, he could not obtain grants for projects overseas. Even after using all administrative means possible, Mr Ali Al-Ahmed has been unable to complete his application process.

2623. Concern was expressed that delays in Mr Ali Al-Ahmed's applications for permanent residency, to renew his travel document and to renew his employment authorization card impeded his non-violent activities in defense of human rights.

### **Urgent appeal**

2624. On 30 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to the freedom of opinion and expression, sent an urgent appeal to the Government regarding Mr **Athemay Sterling**, a Colombian citizen. Mr Athemay Sterling is Director of the Centro de Derechos Humanos e Interpretación Política de la Universidad Santiago de Cali en Defensa de los Derechos Humanos (Human Rights and Political Interpretation Centre at the University of Santiago de Cali for the Defense of Human Rights), and is a member of the Comité por la Defensa de los Derechos Humanos (CPDH – Permanent Committee for the Defense of Human Rights) in Colombia.

2625. According to information received, on 30 June 2008, Mr Athemay Sterling arrived in the United States of America. His visa was cancelled upon arrival and he was held in administrative detention at the Krome detention centre in Miami Florida. For 48 hours, no food was provided and no explanation was given to him as to why he was being detained. He had allegedly undergone intensive interrogation in particular about presumed links with a former guerrilla group known as M-19.

2626. Mr Athemay Sterling had been on his way to Washington to provide information to the Inter-American Commission for Human Rights regarding environmental and health rights violations in Colombia about which he had communicated with the commission. He had planned to stay in the United States of America until 22 July 2008. However, he currently remains in detention.

2627. On 30 July 2008, a hearing was held regarding the detention of Mr Athemay Sterling. According to the immigration police he was undergoing an administrative procedure. No explanation for his detention was given by the immigration police.

2628. Concern was expressed that Mr Athemay Sterling was unable to carry out his legitimate work in the defense of human rights while he was in detention. Further concern was expressed for the physical and psychological integrity of Mr Athemay Sterling while he was in detention.

### **Responses to communications sent earlier**

#### **Response from the Government**

2629. In a letter dated 29 December 2008, the Government responded to the communication sent on 30 September 2005. The Government, while expressing its sincere apologies for the long delay in responding, stressed that the empowerment of women around the world is a top priority for the United States, as is the promotion and protection of the promotion and protection of the human rights of women. These priorities are of particular importance to the United States in Iraq, where the United States has worked closely with the Iraqi Government, the international community and non-governmental organizations to address gender-based violence and related issues.

2630. The response contains detailed information about the projects the Government carries out to promote women's equal participation in society and government; initiatives through cooperation with multilateral organizations; and in supporting several projects through various NGOs that focus on prevention and response to gender-based violence in Iraq.

#### **Observations**

2631. The Special Rapporteur wishes to thank the Government of the United States of America for the response provided to the communication sent on 30 September 2005, but regrets that it took the Government over three years to respond. She is further concerned by the fact that the response of the Government, although provides a very detailed account of various programs and projects carried out by the United States in Iraq, fails to address the specific issues contained in the communication regarding the situation of human rights defenders in Iraq, especially the killing, attacks and death threats mentioned in the communication.

2632. The Special Rapporteur also regrets that no reply had been received to the communications of 22 July 2008 and 30 July 2008. She considers response to her communications as an important part of the cooperation of Governments with her mandate, and urges the Government to respond to the concerns raised by her.

### **Uzbekistan**

#### **Urgent appeal**

2633. On 19 December 2007, the then Special Representative sent an urgent appeal to the Government concerning Ms **Mutabar Tadjibaeva**, Chairwoman of the human rights organization Plammenoe Serdtse (Ardent Hearts Club), based in Ferghana City. She is also one of the founders of the national movement Civil Society and a 2005 Nobel Peace Prize nominee. Ms Mutabar Tadjibaeva had been the subject of numerous urgent appeals by Special Procedures mandates, most recently she was the subject of a joint urgent appeal sent by the Special Representative of the Secretary-General on the situation of human rights defenders, together with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on violence against women, its causes and consequences on 10 July 2007.

According to information received:

2634. Ms Mutabar Tadjibaeva had been subject to poor conditions while in detention and her health has considerably deteriorated as a consequence. Ms Tadjibaeva had been allocated the upper tier of the prison planks in the detention centre despite the fact that she suffers from high blood pressure and this runs the risk of aggravating her condition. She fell recently and had to spend five days in the medical unit. On 14 November 2007, when her daughter came to visit her, Ms Mutabar Tadjibaeva reported that she could not move due to pain in her back and legs. She was unable to walk at the time the appeal was sent. She was also said to have a sore throat for which she had yet to receive adequate medical attention. Ms Mutabar Tadjibaeva had been in detention since July 2006.

2635. Concern was expressed that the detention of Ms Mutabar Tadjibaeva may be linked to her legitimate human rights activities and the aforementioned ill-treatment as well as the denial of medical treatment a form of retaliation. Further concern was expressed for her physical and psychological integrity while in detention.

### **Response from the Government**

2636. In a letter dated 29 February 2008, the Government responded to the communication sent on 19 December 2007. The Government reported that on 6 March 2006, Mutabar Ibragimovna Tadjibaeva was convicted by the Tashkent provincial court and sentenced to eight years' deprivation of liberty. She is currently serving her sentence in institution UY-64/7 in Tashkent. On entering the institution on 7 July 2006, Ms Tadjibaeva underwent medical examination. During this initial examination, she was diagnosed by a general practitioner as suffering from neurocirculatory dystonia with hypertension. She received both inpatient and outpatient treatment for this illness. Ms Tadjibaeva was taken for dynamic clinical observation, resulting in a diagnosis of chronic tracheitis. She was hospitalized most recently from 18 November to 7 December 2007. On completion of her treatment, she was discharged to her unit in a satisfactory condition. She is currently under clinical observation; no deterioration in her state of health has been observed by the medical personnel.

2637. The Government noted that Institution UY-64/7 in Tashkent is regularly visited, among others, by embassy officials and members of the diplomatic corps, international

and local NGOs. The conditions of detention in the institutions of the penal enforcement system of the Ministry of Internal Affairs are scrupulously consistent with the regulations governing penal enforcement institutions, the regulations of the Ministry of Internal Affairs and the legislation in force in Uzbekistan. The administrations of the institutions of the penal enforcement system of the Ministry of Internal Affairs comply strictly with the above-mentioned legal requirements.

### **Urgent appeal**

2638. On 19 February 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal to the Government concerning Mr **Yusuf Juma** and his son Mr **Bobur Juma**. Mr Yusuf Juma is a prominent writer and pro-democracy activist in Uzbekistan.

2639. According to information received, on 22 December 2007, Messrs Yusuf and Bobur Juma were arrested in the Tashkent region and were reportedly being held in the Otbozor Prison in the Bukhara region. According to reports from their lawyer, Mr Ruhiddin Kamilov, who had visited them, Messrs Yusuf and Bobur Juma were being subjected to physical abuse by authorities, in the form of beatings, and verbal abuse on a daily basis. Mr Samad Shukurov, the Prison Governor, had also allegedly threatened Mr Ruhiddin Kamilov, informing him that he was to die soon.

2640. Mr Yusuf Juma and his son were arrested on 22 December 2007 after staging a protest at the arrest of another of his sons, Mr Mashrab Juma, in the run-up to the re-election of President Islam Karimov. Messrs Yusuf and Bobur Juma have reportedly been charged under two articles of the Criminal Code with “insulting” and “resisting representatives of power”. It was reported that Mr Yusuf Juma had been openly critical of President Islam Karimov in his writings.

2641. Concern was expressed that the arrest and detention of Messrs Yusuf and Bobur Juma may be directly related to Mr Yusuf Juma’s activities in defence of human rights, particularly his exercising the right to freedom of expression, and his advocacy of democracy. In view of reports of ill-treatment, serious concern was expressed for the physical and psychological integrity of Messrs Yusuf and Bobur Juma.

### **Response from the Government**

2642. In a letter dated 22 April 2008, the Permanent Mission of Uzbekistan in Geneva responded to the above communication. The letter stated that, on 10 December 2007, the procurator’s office of the Karakul municipal district, Bukhara Province, initiated criminal proceedings under articles 219, part 2, and 140, part 3, of the Uzbek Criminal Code against Mr. Y. Zhumaev and his son, B. Zhumaev.

2643. The basis for prosecution was that they had publicly insulted, resisted the authority of and inflicted moderate bodily harm on a law enforcement officer of the Karakul municipal district, Bukhara Province, Mr. T. Itokov, who was attempting to stop illegal actions of Mr. Y. Zhumaev and his son, Mr. B. Zhumaev, which took the form of an unauthorized march with placards containing anti-constitutional material.

2644. According to the information available to the law enforcement agencies: Yusufzhon Ollokulovich Zhumaev (Yusuf Juma) was taken into custody on 17 December 2007 by the procurator's office of the Karakul municipal district, Bukhara Province, on charges of having committed offences listed in articles 140, part 3, paragraph (a) ("Insults") and 219, part 2 ("Resistance to authority or a person fulfilling a civic duty") of the Uzbek Criminal Code. He entered Bukhara municipal correctional institution UYa-64/IZ-3 on 22 December 2007.

2645. A medical examination showed him to be free of bodily harm; he did not visit the Bukhara forensic medical institute for an examination. His state of health was satisfactory. The letter further contended that, during his time at the correctional institution, he did not make any complaints to the medical service, nor any complaints or representations about unlawful acts by the institution's administration.

2646. Yusufzhon ugli Bobur (Bobur Juma) was taken into custody on 17 December 2007 by the procurator's office of the Karakul municipal district, Bukhara Province, on charges of having committed offences listed in articles 140, part 3, paragraph (a) ("Insults") and 219, part 2 ("Resistance to authority or a person fulfilling a civic duty") of the Uzbek Criminal Code. He entered Bukhara municipal correctional institution UYa-64/IZ-3 on 22 December 2007.

2647. A medical examination showed him to be free of bodily harm. During his time at the correctional institution, he did not make any complaints to the medical service and his state of health was satisfactory. During the time he was held in custody, he made no complaints or representations about unlawful acts by the institution's administration.

2648. The government stated that the detention conditions of Mr. Zhumaev and Mr. Yusufzhon ugli were entirely in accordance with the standards established by the Penal Enforcement Code of the Republic of Uzbekistan. Since their arrest, Mr. Zhumaev and Mr. Yusufzhon ugli had had one meeting with their counsel, Mr. R. Kamilov, who visited them once on 2 February 2008. On 7 March 2008, Mr. Zhumaev and Mr. Yusufzhon ugli submitted a written dismissal of their counsel Mr. Kamilov to the procurator's office of Karakul municipal district. During Mr. Kamilov's meeting with his client Mr. Zhumaev, the prison administration uncovered a breach of security, i.e. counsel Kamilov gave the prisoner some papers, which the latter attempted to conceal surreptitiously on his person.

2649. In response to this, the prison staff stopped their meeting and invited Mr. Zhumaev to present the hidden papers for inspection. When Mr. Zhumaev was searched, photographs of a group of people picketing near the headquarters of the Office of the



Procurator-General of the Republic of Uzbekistan were found upon him and confiscated, together with telephone numbers on a slip of paper, including some of telephone service subscribers in the Russian Federation. Counsel Kamilov was then asked to explain his actions, to which he cynically responded that “the prison administration is acting unlawfully”.

2650. Counsel Kamilov was invited into the office of the prison governor, Lieutenant-Colonel S.U. Shukurov, for an explanation of the incident and in observance of legal standards. The latter explained to him the need to ensure respect for the rules in pretrial detention and remand facilities, in order to prevent collusion by persons in custody, and also explained that the papers and items confiscated from the prisoner could have been used for agitation and provoked unpredictable reactions among the prison population.

2651. In addition, he was told that in fulfilling their duties in accordance with their professional responsibilities, the prison staff had the task of imposing security measures and, in the specific case of remand facilities, preventing remand prisoners from having outside contacts. At the end of the discussion counsel Kamilov, in an inappropriate response to the administration’s demands and having failed to draw the appropriate conclusions, left the premises of the institution, warning the administrator that he would complain about him and his staff.

2652. On the basis of the complaint by counsel Kamilov concerning unlawful actions by the staff of Bukhara municipal correctional institution UYa-64/IZ-3, an official investigation was carried out by the Bukhara procurator’s office and an internal investigation was conducted by the Central Penal Correction Department of the Ministry of Internal Affairs, which established that the information about the use of physical force and psychological pressure against the detainees Y.O. Zhumaev and B. Yusufzhon ugli and threats to counsel Kamilov by the prison governor, Lieutenant-Colonel Z. Shukurov, was groundless and had been invented by counsel Kamilov himself.

2653. Yusufzhon ugli Mashrab was taken into custody on 5 December 2007 by the procurator’s office of Karakul municipal district, Bukhara Province, on charges of having committed offences listed in article 104, part 1 (“Intentional infliction of serious bodily injury”) of the Uzbek Criminal Code. On 11 March 2008, he was sentenced under article 104, part 1 (“Intentional infliction of serious bodily injury”) of the Uzbek Criminal Code by Jondor municipal court, Bukhara Province, to four years’ deprivation of liberty in a prison colony and was currently serving his sentence in correctional institution UYa-64/70, Qashqadaryo Province.

### **Letter of allegations**

2654. On 13 March 2008, the then Special Representative, together with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living sent a letter of allegation to the Government concerning Ms **Saida Kurbanova**, director of the Human Rights Society of Uzbekistan (HRSU), a non-governmental

organization in the Pakhtakor district of the Jizak region. She is also a farmer and a campaigner for farmers' rights.

2655. According to information received, since 24 February 2008, Ms Saida Kurbanova had reportedly been under threat of eviction from her home as a result of her organisation of, and participation in, a series of peaceful protests in the past two months to protest against the lack of domestic heating and electricity in the Jizak region. Reports indicated that Saida Kurbanova has been under pressure from local authorities to leave the region. The head of the Pahtakor District Administration had reportedly threatened her relatives, Kabul Sattarov and Murad Hujamuradov, that they would lose their farms if she refused to leave the Jizak region.

2656. Saida Kurbanova had also reportedly been subject to constant surveillance by unidentified persons in plain clothes and on 22 February 2008, she was attacked by a young man who stole her bag. In May 2007, Saida Kurbanova was subject to a smear campaign by regional media as a result of her work and was called a "traitor of the motherland" by Ergash Soliyev, the head of the Pahtakor District Administration, for internationally publicising the plight of Uzbek farmers. During the winter of 2007/2008, farmers and citizens in Uzbekistan suffered gas shortages amidst freezing temperatures.

2657. Concern was expressed that the harassment and intimidation faced by Ms Saida Kurbanova may be directly related to her activities in defense of human rights, in particular the work carried out by the HRSU in defense of the rights of farmers in Uzbekistan. Further concern was expressed for the physical and psychological integrity of Saida Kurbanova, that of her family and all members of the HRSU.

### **Response from the Government**

2658. In a letter dated 22 April 2008, the Permanent Mission of Uzbekistan in Geneva responded to the above communication. The letter stated that, in the course of the investigation carried out by Uzbekistan's competent authorities, it was established that neither Ms. Saida Kurbanova, born 31 December 1958 nor resident at 7 Safarov Street, "Navbakhor" rural area, Pakhtakor municipal district of Dzhizak [Jizzax] province, nor members of her family, were threatened with expulsion from their homes. They did not appeal to the Office of the Procurator on that subject. Nor did Ms. Kurbanova appeal to the local authorities concerning the lack of electric power and natural gas in Pakhtakor district during the winter of 2007-2008.

2659. However, the letter states that the Dzhizak [Jizzax] municipal internal affairs office was carrying out a preliminary investigation into S. Kurbanova's report that she was attacked on 22 February 2008 and robbed of 49,200 Uzbek sum and other items, and on the basis of the findings, a decision would be taken in accordance with the law. The government stated that there had likewise been no corroboration of the information concerning threats by local administrative and law enforcement officials to Ms. Kurbanova's relatives, Kabul Sattarov and Murad Khuzhamuradov, that they would lose their farms if Ms. Kurbanova refused to leave Dzhizak [Jizzax] province.

2660. The government letter preceded to state that in view of the information brought to the attention of the United Nations Special Rapporteurs concerning alleged violations of Ms. Kurbanova's rights by local authorities and law enforcement agencies in connection with her participation in peaceful protests during which she spoke out against the lack of heating and electricity in the Dzhizak [Jizzax] province during the winter was groundless.

### **Letter of allegations**

2661. On 27 March 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of allegation to the Government concerning the alleged attack against human rights defenders during a peaceful demonstration in Tashkent on 13 March 2008.

2662. According to the information received, on 13 March 2008, approximately twenty human rights defenders gathered in Tashkent for a peaceful demonstration in front of the Office of the Prosecutor General. The demonstration was held to protest against President Karimov's third term as President, which they argued was in violation of an article of the Constitution that prohibits one person from holding the office for more that two consecutive terms.

2663. A group of women assaulted the protestors, injuring one protestor so badly that an ambulance had to be called. The police, who were reportedly observing the attack from the grounds of a nearby maternity hospital, arrived to inform the protestors that one of the women who had confronted them had died. Attacks by groups of women against protestors are said to be part of a campaign of the Uzbek secret services to intimidate human rights defenders and dissuade them from continuing with their work. These women are thought to be women from vulnerable groups in society who have committed minor offences. They are allegedly used by the Uzbek secret services to stage attacks such as this one, and in return the charges against them are dropped by the authorities.

2664. The mandate-holders expressed their fear that these human rights defenders had been targeted as a result of their human rights activities, in particular their work to campaign for democracy, human rights, and the rule of law in Uzbekistan.

### **Response from the Government**

2665. In a letter dated 26 May 2008, the Government responded to the communication sent on 27 March 2008. The Government reported that according to information from the Office of the Prosecutor-General and the Ministry of Internal Affairs, at 11 am on 13 March 2008, representatives of informal human rights organizations engaged in unauthorized picketing near the building of the Office of the Prosecutor-general of Uzbekistan.

2666. The picketers were invited into the Office of the Prosecutor-General for a talk. However, they declined the invitation and dispersed after 1 pm. It has not been established that women assaulted the picketers. The representatives of the informal human rights organizations did not apply to Uzbek law enforcement bodies in this connection.

### **Urgent appeal**

2667. On 31 March 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government concerning Mr. **Yusuf Juma**, a prominent writer and pro-democracy activist, his two sons, Mr. **Bobur** and Mr. **Mashrab Juma**, and Mr. **Ruhiddin Kamilov**, their lawyer. Mr Yusuf Juma was the subject of a communication sent on 19 February 2008 by the Special Representative of the Secretary-General on the situation of human rights defenders, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

2668. According to allegations received, **Yusuf, Bobur and Mashrab Juma** were being detained in Otbozor Prison in the Bukhara region. They had been subject to verbal abuse and beatings on a daily basis by prison authorities since their arrest in mid-December 2007. Yusuf Juma had been recently examined at Bukhara's Medical Law Centre after he fainted from the torture he was subjected to. He was found to be suffering from heart and respiratory problems and had injuries from the beatings. Yusuf and Bobur Juma were being denied access to food and prevented from writing letters and meeting with their lawyer, Mr. Kamilov.

2669. Mashrab Juma was detained on allegedly fabricated charges in the run-up to the re-election of President Karimov, and was sentenced to three years' imprisonment. Yusuf and Bobur Juma have been charged under two articles of the Criminal Code with "insulting" and "resisting representatives of power". Yusuf Juma has been openly critical of President Islam Karimov in his writings. Mr. Kamilov was threatened by the prison governor, whose name is known to the mandate-holders, that he would soon be killed because he and Yusuf Juma were serving the interests of US imperialism.

2670. Concern was expressed for the physical and mental integrity of Yusuf, Bobur and Mashrab Juma, and in relation to acts of intimidation against their lawyer, Mr. Kamilov. Further concern was expressed that the arrest and detention of the three men may be directly related to the activities of Yusuf Juma for the promotion of democracy and freedom of expression in Uzbekistan.

### **Response from the Government**

2671. The response from the Uzbek government, dated 22 April 2008, can be seen above, in response to the urgent appeal of 19 February 2008 which addressed the same case.

### **Letter of allegations**

2672. On 30 April 2008, the Special Representative sent a letter of allegation to the government concerning the alleged harassment of Mr **Ahmadjan Madmarov**. Mr. Madmarov is the regional Chairperson of the Independent Human Rights Organization of Uzbekistan (NOPCHU) and the recipient of the 2005 Front Line Award for Human Rights Defenders at Risk acknowledging his commitment in the promotion of human rights over the past 30 years.

2673. According to the information received, on 6 April 2008, Mr Madmarov was reportedly threatened with arrest when he did not comply with the request of the police chief to keep the police informed of his movements. His passport was confiscated and that night between twelve and fifteen police officers in plain clothes were stationed at his house. The following morning, the officers prevented him from attending a friend's funeral. On 9 April, Mr Madmarov's passport was returned to him without any explanation being given. Mr Madmarov's son, who was due to be released in 2008 after serving a nine-year sentence, was again sentenced to three and a half years' imprisonment. Two other sons and three nephews had also been imprisoned and had reportedly been subject to ill-treatment.

2674. It was feared that the harassment of Mr Madmarov is an attempt to discourage him from continuing with his work in the defense of human rights. Further concern was expressed about his physical and psychological integrity as well as that of his family.

### **Response from the Government**

2675. In a letter dated 19 July 2008, the Government responded to the above communication. The Government reported that upon verification, no proof was found of illegal treatment of Mr Akhmadzhon Madmarov by police officers. Mr Madmarov filed no complaint with the procurator's office.

2676. No illegal treatment or other coercion of the convicted members of the Madmarov family listed in the Government's reply by the prison administration has been established; the prisoners have not filed any complaints with the procurator's office in this regard.

### **Urgent appeal**

2677. On 24 June 2008 the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal in relation to Mr **Salijon Abdurahmanov**, a founding member and leading journalist with Uznews.net, a member of the Real Union of Journalists of Uzbekistan, and a member of the Committee to

Protect Individuals' Rights in Karakalpakstan. Mr Abdurahmanov has also worked for Radio Liberty and the Institute for War and Peace Reporting, and has spoken out against human rights violations in Uzbekistan.

2678. Mr. Abdurahmanov was the subject of a letter of allegations sent by the then Special Representative of the Secretary General on human rights defenders on 22 January 2007.

2679. According to information received, on 7 June 2008, Mr Salijon Abdurahmanov was detained and charged under Article 276, Clause 2A of the Uzbek Criminal Code for the illegal production, purchase and storage of drugs without intent to sell. Salijon Abdurahmanov was stopped in his car by a traffic police officer accompanied by a drug enforcement officer with two sniffer dogs. The officers claimed that they had smelled something suspicious and subsequently searched the car, in which 114.8g of marijuana and 5.89g of opium were allegedly found.

2680. Following the arrest, Mr Abdurahmanov's home was searched and his computer, books, documents and papers were confiscated. It was later reported on [uzmetronom.com](http://uzmetronom.com) that Salijon Abdurahmanov admitted to using drugs, although reports indicate that he tested negative in a drug test. Salijon Abdurahmanov had expressed fears that he could be arrested for his outspokenness in defence of human rights and had been warned against writing in case it resulted in his detention.

2681. Concern was expressed that the arrest and charges against Mr Salijon Abdurahmanov may have been directly related to his activities in defense of human rights, in particular through his exercise of the right to freedom of expression, and that the accusations of drug use may form part of a campaign to discredit him. Concern was expressed for the physical and psychological integrity of Mr Abdurahmanov.

### **Response from the Government**

2682. In a letter dated 19 July 2008, the Government responded to the above urgent appeal. The letter confirmed that a car driven by SA Abdurakhmonov was stopped by officers of the Ministry of Internal Affairs of the Republic of Karakalpakstan. It was found that Mr Abdurakhmonov had no driving license or document of ownership of the vehicle. The vehicle was inspected and substances with a sharp odor were found under the petrol tank wrapped in cellophane and paper. The substances were confiscated in the presence of witnesses and were sent for forensic chemical analysis. According to the analysis, the confiscated substances were 114.18 grams of marijuana and 5.98 grams of opium.

2683. On 7 June 2008, criminal proceedings were initiated against Mr Abdurakhmonov by the investigative department of the Nukus city internal affairs office under article 276, paragraph 2 (a) of the Criminal Code of Uzbekistan (Unlawful production, storage, purchase, carriage or transmission of narcotic or psychotropic substances in large quantities, without the purpose of sale). On 8 June 2008, he was arrested in accordance

with article 221 of the Code of Criminal Procedure of Uzbekistan. On 9 June 2008, Mr Abdurakhmonov was indicted in the criminal case under article 276, paragraph 2 (a) of the Criminal Code of Uzbekistan. On 10 June 2008, the Nukus municipal court chose the preventive measure of remand in custody for Mr Abdurakhmonov.

2684. During the investigation, a search of Mr Abdurakhmonov's home was authorized. A computer, a Dictaphone, a camera, and several documents were confiscated and sent for examination.

2685. According to forensic chemical analysis carried out on 17 June 2008, traces of hashish were found in wipe samples taken from Mr Abdurakhmonov's hands and lips.

2686. The Ministry of Internal Affairs of Uzbekistan has not received any complaints or communications concerning the use against Mr Abdurakhmonov of unauthorized methods during the conduct of the initial inquiry and the investigation. The arrest of Mr Abdurakhmonov and the criminal proceedings against him are not connected with his human rights activities. The pretrial investigation of the case is continuing.

2687. In a letter dated 10 November 2008, the Government further replied to this communication. At the time of the finalization of the present report, a translation of that reply was not yet available.

### **Urgent appeal**

2688. On 10 July 2008, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government regarding Ms **Mutabar Tadjibaeva**, Chairperson of the human rights organization Plammenoe Serdtse (Ardent Hearts Club), co-founder of the national movement Civil Society, nominee for the 2005 Nobel Peace Prize, and winner of the 2008 Martin Ennals Award for Human Rights Defenders. Ms Mutabar Tadjibaeva was the subject of numerous urgent appeals sent by Special Procedures mandates. Most recently she was the subject of an urgent appeal sent by the then Special Representative of the Secretary General on the situation of human rights defenders on 19 December 2007. A response from the Government was received on 29 February 2008.

2689. According to information received, on 2 June 2008, Ms Mutabar Tadjibaeva was released after serving two years of an eight-year prison sentence relating to 17 charges including slander of government bodies and membership of an illegal organization. A condition of her release was a three-year suspended sentence. While in prison she was required to sleep on wooden planks despite suffering from a condition of high blood pressure which could have been worsened by this situation. Ms Mutabar Tadjibaeva stated that her health deteriorated significantly while in prison. During this time she was allegedly subjected to unnecessary surgery. She said that she was not given medical records or results of the surgery, nor an explanation why it was necessary.

2690.

2691. On 4 July 2008, Ms Mutabar Tadjibaeva issued a statement claiming that her health remains under threat because she has not been allowed by the authorities to leave Margilan, the city where she lives, to seek the necessary post-surgery medical care.

2692. The release of Ms Mutabar Tadjibaeva was welcomed. However, concern was expressed that the restriction of her movement and the three-year suspended prison sentence imposed on her may be linked to her legitimate human rights activities. Concern was also expressed for her physical and psychological integrity and the Government was urged to adopt the measures needed to ensure her access to appropriate medical care.

### **Response from the Government**

2693. In a letter dated 19 July 2008, the Government responded to the above urgent appeal. The letter gave details of Mutabar Ibragimova Tadjibaeva's original sentencing by the Tashkent provincial criminal court on 6 March 2003; the upholding of this sentence by the appeals chamber of this court on 30 May 2006; and the eventual commuting of the sentence to a three-year sentence which saw MI Tadjibaeva released from custody on 2 June 2008. It was also stated that, if a person serving a suspended sentence does not comply with the obligations specified by the court, the suspension may be revoked and the original penalty enforced. Finally, the letter stated that whether a citizen may travel abroad is decided by the internal affairs agencies at his or her place of residence.

### **Letter of allegations**

2694. On 19 July 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government in relation to Ms **Gulbahor Turayeva**, human rights defender and pathologist from Andijan. Ms Gulbahor Turayeva was the subject of a letter of allegation sent by the then Special Representative of the Secretary General on the situation of human rights defenders, the Special Rapporteur on the freedom of opinion and expression, and the Special Rapporteur on the independence of judges and lawyers on 9 May 2007, regarding a six-year prison sentence given to her. A response from the Government was received on 3 July 2007.

2695. According to information received, on 8 April 2008, Ms Gulbahor Turayeva and her mother-in-law were forced by an agent of the National Security Department of Andijan, whose identity is known to the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, to criticize journalists from Ozodlik in an interview. Ozodlik is a radio station which has defended the legitimate work of Ms Gulbahor Turayeva in defense of human rights. On 12 June 2008, a six-year prison sentence against Ms Gulbahor Turayeva was changed to a suspended sentence with a three-year probation period. Under the conditions of her sentence Ms Gulbahor Turayeva was forbidden from having any contact with human rights organizations. Her landline and mobile telephones were disconnected, under orders from the National Security Department and threats were made to stop her or her husband from using the internet.



2696. On 7 July 2008, the Press Center of the Initiative Group of Independent Human Rights Defenders published a complaint about the treatment of Ms Gulbahor Turayeva during her probation period. On 9 July 2008, despite having offered to help Ms Gulbahor Turayeva and her husband to find work the previous day, the same agent of the National Security Department who had forced Ms Gulbahor Turayeva to criticize Ozodlik journalists began to threaten Ms Gulbahor Turayeva's husband with imprisonment for having provided information to human rights organizations. Ms Gulbahor Turayeva's husband was later summoned to the National Security Department.

2697. Concern was expressed that the actions taken against Ms Gulbahor Turayeva and her husband may be related to their work in defense of human rights. Concern was also expressed for the physical and psychological integrity of Ms Gulbahor Turayeva and her family, especially given that Ms Gulbahor Turayeva has recently given birth to her fifth child.

### **Urgent appeal**

2698. On 29 July 2008, the Special Rapporteur sent an urgent appeal to the Government concerning Mr **Utkir Pardaev**, Chairperson of the Independent Human Rights Society of Uzbekistan in Dzhizhak district; Mr Mamir Azimov, Chairperson of the HRSU in Dzhizhak district; Mr Ihtiyor Hamroev, member of the Human Rights Society of Uzbekistan (HRSU); Ms Saida Kurbanova, Chairperson of the HRSU in Pakhtakor district; and Mr Zuyadullo Razakov, Chairperson of the International Human Rights Society of Uzbekistan in Dzhizhak district.

2699. Mr Ihtiyor Hamroev has been the subject of three communications sent to your Government, on 11 August 2006, 23 January 2007, and 10 December 2007, in which concern was expressed that his detention and the subsequent extension of this detention may have been related to his and his father's legitimate human rights activity. We acknowledge receipt of your Government's response to the second of these communications on 6 February 2007. Ms Saida Kurbanova was the subject of two communications to your Government, sent on 4 April 2006 and 13 March 2008, regarding harassment and intimidation against her for her human rights activities. We acknowledge receipt of your Government's responses to both communications on 13 February 2007 and 22 April 2008 respectively. Communications have been sent regarding Mr Utkir Pardaev on 26 May 2005 and 22 May 2006. We acknowledge receipt of your Government's response to the first of these communications on 29 June 2005.

2700. According to information received, Visa requests take 21 days to process according to the visa application system. However, the aforementioned human rights defenders have all waited longer than that amount of time for their visas to be processed and the process has yet to be completed.

2701. On 6 February 2008, Mr Utkir Pardaev applied for an exit visa but has not yet received a reply. He complained in writing to the head of the Otdel vizy' i registratsiy

(OVIR - Department of Visa and Registration) but received no reply. He has since complained in writing to the office of the Dzhizhak Municipal Prosecutor.

2702. On 4 March 2008, Mr Mamir Azimov applied for an extension to his exit visa and on each of the four occasions when he has approached the OVIR has been told that no response has been received from Tashkent.

2703. On 16 March 2008, Mr Ihtiyor Hamroev applied for an exit visa and paid 9,700 sums. He has asked for an explanation from the head of the OVIR six times and has been told that his application was refused under orders from the Uzbekistan National Security Service because of he was recently released from prison, having been granted an amnesty on 2 February 2008. He is currently seeking asylum in Kyrgyzstan because of fears that he will be arrested again.

2704. On 12 April 2008, Ms Saida Kurbonova applied for an exit visa. She has approached the head of the OVIR eight times and has consistently been told that permission for her exit visa has not been granted in Tashkent. In April 2008 Mr Ziyadullo Razakov also applied for an extension to his exit visa but has still not received a response.

2705. Concern was expressed that the aforementioned human rights defenders have not been granted exit visas because of their legitimate activities in the defense of human rights. Further concern was expressed that, without being able to leave Uzbekistan, they will not be able to carry out their work effectively.

### **Letter of allegations**

2706. On 5 August 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning Mr **Igor Vorontsov**, Director of Human Rights Watch (HRW) in Uzbekistan. At the time that the letter was sent Mr Igor Vorontsov was reportedly waiting for the approval of his application for accreditation to work with HRW in Uzbekistan.

2707. Since 2004, various HRW employees in Uzbekistan have allegedly been restricted from doing their work. Former Director of the HRW office in Tashkent, Ms Allison Gill, was forced to work outside Uzbekistan for several months between 2004 and 2005 when the Uzbek authorities refused to renew her visa. In spring 2005, Mr Carlo Boehm, HRW's Tashkent associate at the time, was denied accreditation. So too was his successor, Ms Mihra Rittmann, in 2007. Mr Igor Vorontsov's predecessor as Director of HRW in Uzbekistan, Ms Andrea Berg, was also denied accreditation in April 2007 before that decision was reversed.

2708. According to information received, in early February 2008, Mr Igor Vorontsov began work as a representative for HRW in Uzbekistan and applied for accreditation with the authorities. His application was rejected on the grounds that he was not suitably qualified for the position, in a letter dated 8 May 2008 and signed by the Deputy Minister

for Justice. HRW appealed this decision in writing on 12 June 2008, and in meetings with the Uzbek authorities between 2 and 4 July 2008. During these meetings the authorities affirmed that their problem was not with HRW but with the unsuitability of Mr Igor Vorontsov as a candidate for the position. On 16 July 2008, the Uzbek authorities informed HRW by telephone that they would not be willing to reconsider their decision regarding Mr Igor Vorontsov, although a non-Russian candidate would be considered.

2709. On 19 July 2008, Mr Igor Vorontsov received a report from the HRW office in Tashkent which informed him that officers from the Ministry of Internal Affairs had been looking for him and that they had left a message to say that “it would not be advisable for the HRW representative to attempt returning to Uzbekistan”. Soon afterwards, he received a telephone call from a man who claimed to be calling from the Ministry of Internal Affairs. The caller did not give his name but told Mr Igor Vorontsov that he had been banned from entering Uzbekistan under regulation number 408. No further details were given about the content of the regulation or the reasons for the decision. Mr Igor Vorontsov was told to make a request in writing if he wished for any further information.

2710. Concern was expressed that, being unable to reenter Uzbekistan, Mr Igor Vorontsov would be unable to carry out his peaceful and legitimate activities in defense of human rights as a representative of HRW. Further concern was expressed that the reluctance to approve Mr Igor Vorontsov’s accreditation might form part of an ongoing trend of harassment against human rights defenders in Uzbekistan, in particular those associated with HRW.

### **Urgent appeal**

2711. On 12 August 2008, the Special Rapporteur sent an urgent appeal to the Government concerning Messrs **Zohir Hasanzoda**, **Pardakul Turakulov** and **Kamiljon Ashurov**. Mr Zohir Hasanzoda is a member of the Centre for Human Rights Initiatives, in Samarkland, and a journalist with the Ovozi Tojik (Tajik Voice). Mr Pardakul Turakulov is also a member of the Centre for Human Rights Initiatives and a free-lance journalist who has written for Ovozi Tojik. Mr Kamiljon Ashurov is the Director of the Centre for Human Rights Initiatives.

2712. According to new information received, on 5 August 2008, Messrs Zohir Hasanzoda, Pardakul Turakulov and Kamiljon Ashurov were charged with hooliganism under Article 277, Part 2 of the Uzbek Criminal Code. The charges were made after two women had filed a complaint against the men for physical assault. Messrs Zohir Hasanzoda, Pardakul Turakulov and Kamiljon Ashurov have claimed that this complaint is unfounded and that they were in fact attacked by a group of women who were unhappy with their investigations into weight cheating and the reconstruction of the market premises at a local market.

2713. Police broke up the dispute and made the men wait in a vehicle before bringing them to the police station. There they were verbally and physically abused by a group of

approximately 15 women. The women left after Mr Kamiljon Ashurov, who had begun to experience heart pain, fainted and an ambulance was called for him.

2714. Messrs Zohir Hasanzoda and Pardakul Turakulov were searched in separate rooms. Property such as mobile telephones, cameras and notebooks was confiscated. All three men were then transferred to another police station and interrogated about the earlier incident at the market. The police attempted to force Messrs Zohir Hasanzoda, Pardakul Turakulov and Kamiljon Ashurov to confess that they had attacked the women. After refusing to do so they were charged with hooliganism.

2715. Concern was expressed that the assault and charges against the aforementioned human rights defenders may be directly related to their legitimate work in the defense of human rights. Further concern was expressed that this incident may form part of an ongoing pattern to restrict the work of human rights defenders in Uzbekistan through verbal or physical abuse by women.

### **Response from the Government**

2716. In a letter dated 4 September 2008, the Government responded to the communication of 12 August 2008. The Government informed that on 5 August 2008, criminal proceedings were brought against Mr Pardakul Turakulov, Mr Zohir Hasanzoda and Mr Kamiljon Ashurov, by the investigative department of the Samarkand internal affairs office of the Ministry of Internal Affairs under Article 277, paragraph 2 (b) of the Uzbek Criminal Code (criminal mischief committed by a group).

2717. Proceedings were initiated on the basis of materials collected in an initial inquiry by the responsible authorities, which was conducted on the basis of complaints filed by Samarkand residents Ms S. Kamraeva and Ms D. Mirmukhammedova to the effect that on 5 August 2008, at approximately noon, Mr Turakulov and Hasanzoda, journalists with Ovozi Tojik (Tajik Voice), a Samarkand province newspaper, together with Mr Ashurov, were at the Siab farmer's market in Samarkand. After quarrelling with market vendors, they struck Ms Mirmukhammedova and Ms Khamraeva for no reason whatsoever in disregard of all rules of public behaviour, causing them minor injuries that had no short-term effect on their health. On 6 August 2008, Mr Turakulov, Mr Ashurov and Mr Hasanzoda were charged as suspects in a criminal case and were read their rights and duties under article 48 of the Uzbek Code of Criminal Procedure in the presence of a defence counsel. In order to establish the facts of the case, the market vendors were questioned as witnesses, as were members of the administration of the Siab market. During the preliminary investigation conducted in respect of Mr Turakulov, Mr Hasanzoda and Mr Ashurov, no formal charges were brought.

2718. The questioning of the suspects was conducted in accordance with the requirements of the norms of criminal procedural legislation. The suspects showed no physical or psychological effects whatsoever; moreover, there were no complaints either from Mr Turakulov, Mr Hasanzoda or Mr Ashurov or from their counsel or close

relatives that unwarranted investigative methods had been used during the investigation. The preliminary investigation in this criminal case continues.

### **Urgent appeal**

2719. On 23 September 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding Mr. **Akzam Turgunov** and Mr. **Salijon Abdurahmanov**. Mr. Akzam Turgunov is the executive director of Mazlum, a non-governmental organization dedicated to the defense of human rights. He has also worked as a public defender in cases involving human rights violations. Mr. Salijon Abdurahmanov is a founding member and leading journalist with Uznews.net, a member of the Real Union of Journalists of Uzbekistan, and a member of the Committee to Protect Individuals' Rights in Karakalpakstan. He has also worked for Radio Liberty and the Institute for War and Peace Reporting, and has spoken out against human rights violations in Uzbekistan.

2720. According to new information received, on 11 July 2008, Mr. Akzam Turgunov was arrested in Manget, Karakalpakstan, on charges of extortion. While being held at a police detention centre in Nukus, he was taken to an investigator's office on 14 July 2008, where boiling water was poured on his back. On 4 September 2008, Mr. Akzam Turgunov's trial began at the Amudarya District Court in Nukus. It was resumed on 16 September 2008. Mr. Akzam Turgunov may face up to 15 years imprisonment on charges of extortion under Article 165, Part 3 of the Criminal Code of Uzbekistan. The next hearing will be scheduled once a medical report on the alleged ill-treatment of Mr. Akzam Turgunov is available.

2721. Mr. Salijon Abdurahmanov was arrested on 7 June 2008, after drugs had reportedly been planted in his car. His trial before the Tahtakupir District Court commenced on 12 September 2008. The hearing was not open to the public. The police officers and the sniffer-dog specialist who had reported finding illegal drugs in Mr. Salijon Abdurahmanov's car were not present at the trial. Mr. Salijon Abdurahmanov has now been charged with "selling drugs in large consignment" under Article 25-273 (5) of the Criminal Code of Uzbekistan. The new charges against Mr. Salijon Abdurahmanov could result in a sentence of up to 20 years imprisonment.

2722. According to the Government's response to Special Procedures mandate holders, received on 19 July 2008: "on 9 June 2008, Mr Abdurakhmonov was indicted [...] under article 276, paragraph 2 (a) (Unlawful production, storage, purchase, carriage or transmission of narcotic or psychotropic substances in large quantities, without the purpose of sale) [italics added] of the Criminal Code of Uzbekistan".

2723. In view of the above allegations of ill-treatment of Mr. Akzam Turgunov, concern was expressed for his physical and psychological integrity. Further concern was

expressed that the above described arrests, detention and trials may have been related to the activities of Mr. Akzam Turgunov and Mr. Salijon Abdurahmanov in the defense of human rights. It is feared that the above incidents may form part of an ongoing pattern to restrict the work of members of Mazlum and other human rights defenders in Karakalpakstan.

### **Response from the Government**

2724. In a letter dated 10 November 2008, the Government responded to the communication of 23 September 2008. At the time of the finalization of the present report, a translation of the reply was not yet available.

### **Urgent appeal**

2725. On 27 October 2008, the Special Rapporteur, together with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal concerning Mr. **Norboy Kholkigitov**, aged 60, former President of the Human Rights Society of Uzbekistan (HRSU), Ishtikan District.

2726. Mr. Norboy Kholkigitov was the subject of an allegation letter sent on 25 July 2005 by the then Special Representative of the Secretary-General on the situation of human rights defenders and the previous Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. The response from the Government was received on 28 November 2005.

2727. According to new information received, on 18 October 2005, The Samarkand Regional Criminal Court sentenced Mr. Norboy Kholigitov to ten years' imprisonment. He is now detained at Prison 64/49 in Karshi. He suffers from diabetes, but has not been allowed access to adequate medical treatment. Although he had not committed any disciplinary violation, he was recently given a warning by prison authorities, which means that he cannot benefit from any amnesty.

2728. Concern was expressed that the alleged denial of medical treatment of Mr. Norboy Kholigitov may be related to his work in the defense of human rights. Serious concern was expressed for the physical and psychological integrity of Mr. Norboy Kholigitov.

### **Urgent appeal**

2729. On 28 October 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal concerning Mr. **Salijon Abdurahmanov** and Mr. **Akzam Turgunov**. Mr. Salijon Abdurahmanov is a founding member and leading journalist with *Uznews.net*, a member of the *Real Union of Journalists* of Uzbekistan, and a member of the *Committee to Protect Individuals' Rights* in

Karakalpakstan. He has also worked for *Radio Liberty* and the *Institute for War and Peace Reporting*, and has spoken out against human rights violations in Uzbekistan. Mr. Akzam Turgunov has worked as a public defender in cases involving human rights violations and is the executive director of *Mazlum*, a non-governmental organization dedicated to the defense of human rights.

2730. According to new information received, on 10 October 2008, Mr. Salijon Abdurahmanov was sentenced to ten years' imprisonment by Nukus Court under charges of "selling drugs in large consignment" (Article 25-273, Part 5 of the Uzbek Criminal Code). These charges were different from the original charges brought against Mr. Salijon Abdurahmonov according to your Government's response to the communication sent by mandate-holders, received on 19 July 2008. In this response it was stated that "on 9 June 2008, Mr Abdurakhmonov was indicted [...] under article 276, paragraph 2 (a) (Unlawful production, storage, purchase, carriage or transmission of narcotic or psychotropic substances in large quantities, without the purpose of sale) [italics added] of the Criminal Code of Uzbekistan". It is believed that the charges brought against Mr. Salijon Abdurahmanov may have been fabricated and that the evidence used against him may be based on the discovery of drugs which were planted in his car. The place where Mr. Salijon Abdurahmanov is currently detained is unknown.

2731. On 23 October 2008, Mr. Akzam Turgunov was sentenced to ten years' imprisonment by a court in Manget, Karakalpakstan, on charges of extortion (Article 165, Part 3 of the Criminal Code of Uzbekistan). He is currently in detention in colony 64/9, Nukus. Mr. Akzam Turgunov has reportedly been subjected to ill-treatment while in detention since 11 July 2008.

2732. Concern was expressed that the sentencing of Mr. Salijon Abdurahmanov and Mr. Akzam Turgunov may be related to their legitimate activities in the defense of human rights. Further concern was expressed that this may form part of an ongoing pattern to restrict the work of members of *Mazlum* and other human rights defenders in Karakalpakstan. In view of the allegations of the secret detention of Mr. Salijon Abdurahmanov and the ill-treatment of Mr. Akzam Turgunov, serious concern was expressed for his physical and psychological integrity.

### **Response from the Government**

2733. In letters dated 10 November 2008 and 23 January 2009, the Government responded to the communication of 28 October 2008. The Government reported that, in accordance with the judgement handed down on 23 October 2008 by the Amudarin District Criminal Court of the Republic of Karakalpakstan, Mr. Akzam Olimovich Turgunov was found guilty of extorting 500,000 sum from Mr. O. Khuzhabaev and sentenced, under article 165, part 3, paragraph (a), of the Uzbek Criminal Code, to 10 years' deprivation of liberty, the punishment to be served in an ordinary-regime colony.

2734. In criminal appellate proceedings before the Supreme Court of the Republic of Karakalpakstan on 11 December 2008, the judgement in respect of Mr. Turgunov was upheld.

2735. By a judgement of the Takhtakupyr District Criminal Court of the Republic of Karakalpakstan of 10 October 2008, Mr. Salijon Abduraimovich Abdurahmanov was found guilty of attempting to illicitly sell narcotic substances - 114.18 grams of marijuana and 5.98 grams of opium - and sentenced, under articles 25 and 273, part 5, of the Uzbek Criminal Code, to 10 years' deprivation of liberty, the punishment to be served in an ordinary-regime colony.

2736. In criminal appellate proceedings before the Supreme Court of the Republic of Karakalpakstan on 19 November 2008, the judgement concerning Mr. Abdurahmanov was upheld.

2737. The commission by Mr. Turgunov and Mr. Abdurahmanov of particularly serious crimes was proved by the case files, and the sentence imposed was commensurate with their crimes.

### **Urgent appeal**

2738. On 12 November 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning Mr. **Abdurasul Khudoynazarov**, a member of the *Human Rights Society of Uzbekistan (HRSU)* "*Ezgulik*". He has worked to combat corruption within the Uzbek law enforcement authorities.

2739. According to new information received, on 26 June 2005, Mr. Abdurasul Khudoynazarov was arrested. He was then condemned to nine years' imprisonment by the Criminal Court of Tashkent under Articles 165 and 168 of the Criminal Code of Uzbekistan on charges of extortion and fraud, respectively. He is currently detained in prison N64/1, where he is reportedly tortured and humiliated by prison guards on a daily basis. He informed his colleagues at HRSU about the conditions of detention in the prison and attempted to bring these conditions to the attention of the special prosecutor, but was subsequently placed in solitary confinement. From 12 to 24 June 2008, he again attempted to protest against the conditions of detention but was given 15 more days of solitary confinement. On 1 September 2008, he attempted to hang himself to death but was stopped by the prison guards.

2740. Concern was expressed that the arrest, detention, and ill-treatment of Mr. Abdurasul Khudoynazarov may be related to his legitimate activities in the defense of human rights, in particular his work to expose corruption by the Uzbek law enforcement authorities and attempts to expose the poor conditions of detention in prison N64/1. Serious concern was expressed for the physical and psychological integrity of Mr. Abdurasul Khudoynazarov. Further concern was expressed that the ill-treatment of Mr.



Abdurasul Khudoynazarov may form part of an ongoing trend of harassment against members of HRSU.

### **Response from the Government**

2741. In a letter dated 29 December 2008, the Government responded to the communication of 12 November 2008. At the time of the finalization of the present report, a translation of the reply was not yet available.

### **Observations**

2742. The Special Rapporteur wishes to thank the Government for the responses transmitted to the majority of her communications, and urges the Government to provide replies to the outstanding communications of 18 July 2008, 29 July 2008, 5 August 2008 and 27 October 2008.

2743. While welcoming the release of Ms Mutabar Tadjibaeva, the Special Rapporteur wishes to express her serious concerns regarding the situation of human rights defenders in Uzbekistan. The conditions in which both human rights defenders are reportedly being detained are viewed as unacceptable and the Special Rapporteur calls on the Uzbek Government to ensure that the conditions of detention and the treatment of those detained are in full compliance with international norms and standards.

## **Venezuela**

### **Carta de alegaciones**

2744. El 21 de diciembre de 2007, la Representante Especial envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **Benjamín García** y su hijo de 16 años, **Daniel Antonio García**. El Sr. Benjamín García es representante legal del Comité Guardianes de la Justicia, el cual se dedica a la protección de los derechos humanos en el Municipio de Sucre, Estado de Portuguesa.

2745. Según la información recibida, el 3 de noviembre de 2007, a las 21.00 aproximadamente, el Sr. Benjamín García estaba con su familia en un local comercial de los Pinos cuando habría sido objeto de un ataque, supuestamente por el Sr. Rubén Castellanos, un agente de la Policía Municipal de Sucre. El Sr. Castellanos, vestido de civil, habría empujado al Sr. García mientras le golpeaba, amenazándole por el hecho de que habría presentado denuncias en la fiscalía. Además, el Sr. Rubén Castellanos también habría atacado y golpeado al hijo de 16 años del Sr. García, Daniel Antonio García, hasta que las personas que estaban presente los separaron. Anteriormente, el Comité Guardianes de la Justicia habría presentado una denuncia contra dos agentes de la Policía Municipal de Sucre alegando supuestas violaciones de los derechos humanos.

2746. Se temía que el ataque contra el Sr. Benjamín García y su hijo de 16 años, Daniel Antonio García, pueda estar relacionado con las actividades del Sr. Benjamín García en la defensa de los derechos humanos. Se expresó profunda preocupación por la integridad física y psicológica del Sr. Benjamín García, así como la de los miembros de su familia.

### **Carta de alegaciones**

2747. El 29 de septiembre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y la protección del derecho a la libertad de opinión y de expresión enviaron una carta de alegaciones, señalando a la atención del Gobierno la información recibida en relación con la expulsión de Venezuela de los Sres. **José Miguel Vivanco** y **Daniel Wilkinson**, Director Ejecutivo y Subdirector respectivamente de la división para las Américas de Human Rights Watch (HRW). HRW es una organización no gubernamental bien conocida e independiente que investiga violaciones de los derechos humanos en todas las regiones del mundo.

2748. De acuerdo con las informaciones recibidas, el 18 de septiembre de 2008 HRW presentó un informe sobre la situación de los derechos humanos en Venezuela que se llamaba Una Década de Chávez: Intolerancia política y oportunidades perdidas para el progreso de los derechos humanos en Venezuela. Horas después, unos 20 hombres armados, algunos de los cuales llevaban uniforme, se habrían dirigido al hotel de los Sres. José Miguel Vivanco y Daniel Wilkinson en Caracas para expulsarles de Venezuela. Se les habrían confiscado los teléfonos celulares y no les habrían permitido ponerse en contacto con sus embajadas respectivas. Les habrían llevado al aeropuerto en coches y les habrían puesto en un avión para Sao Paulo, Brasil.

2749. El día anterior, el Ministros de Relaciones Exteriores y el Ministro del Interior y Justicia habrían declarado que HRW actuaba en coordinación con los Estados Unidos de América. También dichos Ministros habrían acusado a Los Sres. José Miguel Vivanco y Daniel Wilkinson de violar la Constitución y las leyes de la República Bolivariana de Venezuela, de agredir a las instituciones venezolanas, y de inmiscuirse ilegalmente en los asuntos internos del país.

### **Carta de alegaciones**

2750. El 22 de octubre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la tortura enviaron una carta de alegaciones, señalando a la atención del Gobierno la información recibida en relación con las Sras. **Kelys Amundaray**, **Maryluz Coromoto Guillén Rodríguez**, y **María de los Ángeles Peña Fonseca**, y el Sr. **Tomas Antonio Becerra Ramírez**, defensores de los derechos de los pueblos indígenas, en particular los derechos de la comunidad indígena Yukpa Chaktapa. Según nos informan, esta comunidad ha venido reclamando el proceso de demarcación de sus territorios ancestrales tal como lo establece la Constitución Política de Venezuela.

2751. De acuerdo con las informaciones recibidas, el 23 de agosto de 2008, las Sras. Kelys Amundaray, Maryluz Coromoto Guillén Rodríguez, y María de los Ángeles Peña Fonseca, y el Sr. Tomas Antonio Becerra Ramírez viajaban en autobús con el objeto de participar en una acción humanitaria junto con otras personas para promocionar el respecto de los derechos de la comunidad Yukpa Chaktapa. Sin embargo, la Guardia Nacional y el Ejército les habrían impedido el paso, detenido y conducido ante un tribunal.

2752. El Sr. Becerra Ramírez habría intentó impedir que un militar sujetara a una compañera que participaba en la acción humanitaria. Un teniente le agarró y le colocó una pistola en la cabeza. Un grupo de aproximadamente diez soldados le rodearon lanzándole al piso y propinándole golpes de pie. Fue trasladado a una unidad móvil militar donde le habrían pegado con cascos, rolos y botas. A causa de estos malos tratos, el Sr. Becerra Ramírez sufrió hematomas en la espalda y en los brazos, así como varias cortaduras en la cabeza que habrían ameritado puntos de sutura, perdiendo el conocimiento. Permaneció en la unidad militar entre las ocho de la tarde y las tres de la mañana del día siguiente, siendo entonces trasladado a un hospital. En el hospital no le habrían suturado las cortaduras, limitándose a limpiarle la sangre. Tampoco le habrían sometido a exámenes médicos.

2753. Se informa que las personas que fueron detenidas, defensoras de los derechos humanos, se encuentran actualmente sujetos a un régimen de comparecencia, debiendo presentarse cada 45 días ante un tribunal, bajo cargos de lesiones personales, resistencia a la autoridad y daño a la propiedad pública.

2754. Se expresa preocupación que la detención y las acciones jurídicas adoptadas contra las Sras. Kelys Amundaray, Maryluz Coromoto Guillén Rodríguez, y María de los Ángeles Peña Fonseca, y el Sr. Tomas Antonio Becerra Ramírez, así como los malos tratos sufridos infringidos a este último, puedan estar relacionados con sus actividades legítimas de defensa de los derechos de la comunidad indígena Yukpa Chaktapa.

### **Observaciones**

2755. La Relatora Especial lamenta que al momento de finalización del presente informe no había recibido respuesta a sus comunicaciones de 21 de diciembre de 2007, de 24 de septiembre de 2008 y de 22 de octubre de 2008. La Relatora Especial espera una respuesta positiva del Gobierno a su solicitud de visitar el país para dialogar con las autoridades sobre la situación de los defensores de derechos humanos.

### **Viet Nam**

#### **Letter of allegations**

2756. On 9 January 2008, the then Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegations concerning **more than 40 democracy activists, opposition party members and labour**

**union leaders who have been arrested during the past 15 months for charges relating to the spread of "anti-government propaganda"** and in particular regarding Mr. **Nguyen Van Dai**, human rights lawyer. According to the information received:

2757. On 6 March 2007, Mr. Van Dai was arrested on the charge of spreading "propaganda against the Socialist Republic of Vietnam". After his arrest, numerous requests were made to grant Mr. Van Dai access to a lawyer. On 2 May 2007, seven working days before the trial, a defense lawyer was provided by the Hanoi People's Court. The lawyer was neither provided with the investigative report of the Hanoi Public Security Office nor the indictment of the Hanoi People's Procuracy.

2758. During the court trial of first instance of 11 May 2007, immediate family members of the accused were not allowed to attend the event. They were stopped at the entry door reportedly because they could not produce invitation letters.

2759. During the trial, the defendant and his lawyer were not allowed to make any reference to issues relating to political organizations and parties. On the other hand, the prosecutors were allowed to discuss these issues.

2760. On 11 May 2007, the Hanoi People's Court sentenced Mr. Van Dai to five years of imprisonment. On 28 November, an appeals court reduced this sentence by one year.

2761. As a human rights lawyer Mr. Van Dai has written many legal complaints to the authorities concerning violations of freedom of religion and believe.

2762. Concern was expressed that Mr. Van Dai did not enjoy a fair and public trial with adequate possibilities to defend himself because of his activities as a human rights lawyer.

### **Response from the Government**

2763. By a letter dated 7 March 2008, the Government responded to the communication, indicating that Mr Nguyen Van Dai joined a number of organizations which were illegally established and unregistered as provided by laws. He collected, propagated and distributed information and documents, and answered interviews by journalists of foreign radios and newspapers with contents inciting hatred, violence and stimulating actions aimed at disturbing public order. Those activities of Mr Nguyen Van Dai violated provisions of Vietnamese laws. On 6 March 2007, the Agency of Investigation arrested and provisionally detained Mr Nguyen Van Dai. On 11 May 2007, the People's Court of Hanoi publicly tried him at first instance. In accordance with article 88 of the Penal Code, the Court sentenced him to 5 years imprisonment and 4 years of administrative probation following the completion of his jail term. At his appeal on 27 November 2007, the People's Supreme Court opened a court of appeals to try him and sentenced him to 4 years of imprisonment and 4 years of administrative probation following the completion of his jail term. The whole process of investigation, arrest, provisional detention and trial of Mr Nguyen Van Dai were conducted by the judicial agencies in full and strict

observance of legal proceedings stipulated in the Criminal Procedure Code of Viet Nam and in conformity with international practice, particularly the complete independence of the judicial agencies. Both the court of first instance and the court of appeal were public. There were parts of cross-examinations and questions before the court. There were defence counsels and witnesses. Particularly, representatives of embassies from many countries (USA, Norway, Australia, France, Sweden, the Netherlands, Germany, and the UK) and a lot of foreign journalists (AFP, AP, Times, DPA, Kyodo News and Reuters) were allowed to attend and report on the trials. On 23 October 2007, during a meeting with the US Commission on International Religious Freedom (CIRF) Delegation, Mr Nguyen Van Dai acknowledged that he was humanely treated in accordance with provisions of Vietnamese laws.

### **Observations**

2764. The Special Rapporteur thanks the Government for its response.

## **Yemen**

### **Letter of allegations**

2765. On 16 May 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations concerning Mr **Fahad Al-Qarni**.

2766. According to the information received, on 5 April 2008, Mr Fahad Al-Qarni was arrested by agents of the Political Security Organization of Taiz on his way to a festival in Aden. He was charged with inciting an armed overthrow of the government and insulting the President.

2767. The Office of the Attorney General issued a detention order against Mr Fahad Al-Qarni for a period of seven days, but he is allegedly being detained until he submits a written apology for publicly expressing his opinions regarding the alleged corruption of the President and the government. Mr Fahad Al-Qarni has reportedly been ill-treated by security agents while in detention.

2768. Mr. Fahad Al-Qarni has previously been arrested and imprisoned for recording songs critical of government policies, in July 2006. If Mr Fahad Al-Qarni is found guilty he could be sentenced to up to six years of imprisonment.

2769. Concern was expressed that the arrest and detention of Mr Fahad Al-Qarni might solely be connected to his reportedly peaceful activities in defending human rights, in particular the exercise of his right to freedom of opinion and expression. Further concerns were expressed for his physical and psychological integrity while in detention.

### **Response from the Government**

2770. In a letter dated 4 September 2008, the Government responded to the communication. The Government reported that a review by the competent court had been conducted on Mr al-Oarni's case and he was sentenced to one and a half years imprisonment, and fined to 500.000 Yemeni Riyals for instigating an armed mutiny during his participation in a public political rally.

### **Letter of allegations**

2771. On 16 June 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning the sentencing to six years' imprisonment of journalist and human rights defender Mr **Abdul-Karim al-Khaiwani**. Mr al-Khaiwani is former Editor-in-Chief of the pro-democracy online newspaper Al-Shoura, and he is also a well known pro-democracy activist and a campaigner for the right to freedom of expression in Yemen.

2772. According to information received, on 9 June 2008, Mr Abdul-Karim al-Khaiwani was sentenced to six years' imprisonment by a state security court in Sana'a for allegedly conspiring with anti-government rebels. He has been charged with insulting the President and "demoralising the military", as well as having alleged links with an al-Houthi terrorist cell, based on articles written about the Sa'ada war in Yemen.

2773. According to reports, the newspaper for which Mr Abdul-Karim al-Khaiwani works has been closed and his website has been blocked. His family has also been subjected to physical abuse and threats. In 2004, Mr Abdul-Karim al-Khaiwani was sentenced to one year of imprisonment for allegedly supporting the late Hussain Badr al-Din al-Huthi, a cleric from the Zaidi community. On 20 June 2007, he was arrested at his home by plain clothed members of the National Security who reportedly dragged him from his bed and assaulted him. His arrest was linked to allegations of association with an al-Houthi terrorist cell, accusations which are claimed to have been fabricated.

2774. Mr Abdul-Karim al-Khaiwani has previously reported on human rights violations against the Zaidi community and those suspected of having links to al-Houthi. On 27 August 2007, after having been released from prison on bail, Mr Abdul-Karim al-Khaiwani was abducted and tortured by a gang of armed men. It is believed that this attack was linked to a report he was about to publish on conditions in Yemeni prisons. On 17 June 2008, Mr Abdul-Karim al-Khaiwani was due to travel to London to accept Amnesty International's "Special Award For Human Rights Journalism Under Threat."

2775. Concern was expressed that Mr Abdul-Karim al-Khaiwani sentencing to six years' imprisonment is linked to his legitimate work to provide information about the 4-year old conflict in Sa'ada, promote democracy and the right to freedom of expression in Yemen.

### **Urgent appeal**

2776. On 14 August 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal concerning Mr **Louay Abdulwahab Ali Al-Mouayyad**, aged 24, residing at Freedom Avenue, journalist and human rights defender, member of the « Organisation for democratic rights and liberties », executive director of the portal 'Free Yémen'.

2777. According to the information received, Mr Louay Abdulwahab Ali Al-Mouayyad was arrested at his home on 20 June 2008 by several security services (Al Amn Assiyassi) officers in civil clothes accompanied by some militaries. They did not present any arrest warrant and did not explain the reasons for arrest. They then took him to an unknown place. That evening the family was advised to prepare his laptop and the medicine he needs. The family was also able to speak to Mr. Al-Mouayyad. Since then the family has not had any information about his whereabouts in spite of many attempts to find out where he is with the security services and the Prosecutor's office.

2778. With a view to the alleged secret detention of Mr Al-Mouayyad, concern was expressed for his physical and mental integrity, in particular since he might not have access to the medication he needs.

### **Response from the Government**

2779. In a letter dated 22 October 2008, the Government informed that Mr Louay Abdulwahab Ali Al-Mouayyad had been released.

### **Urgent appeal**

2780. On 14 August 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal concerning Mr **Mohamed al-Saqaf**, a lawyer and university lecturer. Mr al-Saqaf supported and defended peaceful protesters from Southern Yemen, and expressed criticism about the repression of these protests.

2781. According to the new information received, on 11 August 2008 Mr Mohamed al-Saqaf was arrested by security agents on charges of "undermining national unity". He had been arrested at Sana'a airport, and is currently being held at the Criminal investigation prison in Sana'a.

2782. Mr al-Saqaf is the lawyer of Mr Hassan Ba'oom, who participated in demonstrations organized by retired South Yemeni soldiers, and was arrested on 2 August 2007. Mr Ba'oom was among those participating in the sit-in protest in Liberty Square in central Aden, about discrimination against South Yemeni soldiers in the spheres of employment, salaries and pensions.

2783. Concern was expressed that the arrest and detention of Mr Mohamed al-Saqaf may be solely connected with his activities of defending Mr Hassan Ba'oom in court proceedings, and for peacefully exercising his freedom of expression. Further concern was expressed regarding the physical and psychological integrity of Mr al-Saqaf, who may be at the risk of torture and ill-treatment.

### **Response from the Government**

2784. In a letter dated 17 October 2008, the Government informed that Mr Mohamed al-Saqaf is not detained at their custody.

### **Observations**

2785. The Special Rapporteur wishes to thank the Government of Yemen for the responses provided to the communications of 14 August 2008, and 16 May 2008. The Special Rapporteur regrets that at the time of the finalization of the present report, no response was available to the communication of 16 June 2008, and urges the Government to transmit it as soon as possible.

2786. Concerning the case of Mr **Fahad Al-Qarni**, the Special Rapporteur wishes to reiterate her concerns that the sentencing of Mr Al-Qarni and the fine imposed on him may be solely connected to his reportedly peaceful activities in defending human rights, in particular the exercise of his right to freedom of opinion and expression. The Special Rapporteur requests the Government to provide further information on how the measures taken against Mr Al-Qarni are in compliance with Yemen's obligations under international human rights law, especially with article 19 of the International Covenant on Civil and Political Rights, and article 6 of the Declaration on human rights defenders.

2787. Concerning the case of Mr **Louay Abdulwahab Ali Al- Mouayyad**, the Special Rapporteur urges the Government to provide additional information regarding the legal basis of his arrest and detention.

2788. Concerning the case of Mr **Mohamed al-Saqaf**, the Special Rapporteur requests the Government to provide information about the legal basis of his obligation to report to the authorities whenever he is required to do so.

## **Zimbabwe**

### **Letter of allegations**

2789. On 26 February 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the right to education and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegations regarding a group of teachers and members of the Progressive Teachers' Union (PTUZ),



including Messrs **Takavafira Zhou** (president), **Raymond Majongwe** (secretary general), **Harrison Mudzuri**, **Landistoun Zunde**, **Oswald Mudziva**, **Bernard Shoko**, **Charles Mubwandarika**, and Ms **Linda Simande**, currently involved in a campaign entitled “Save our Education” which highlights shortcomings in the education system in Zimbabwe. According to information received:

2790. On 19 February 2008, the aforementioned members of the Progressive Teachers’ Union (PTUZ) were reportedly engaged in a peaceful protest, distributing leaflets in Harare as part of the “Save our Education” campaign. While on Fourth St, the protesters were accosted by a number of unidentified youths, who reportedly brought them to a building used by the ruling political party, the Zimbabwe African National Union – Patriotic Front (ZANU-PF), where they assaulted them

2791. The assailants reportedly hit and kicked the protesters with clenched feet, open palms, booted feet and iron rods. One female teacher was reportedly stripped naked in front of her male colleagues and assailants, and had her genital area repeatedly stepped upon. During the assaults, the victims were accused of being activists from the opposition party Movement for Democratic Change.

2792. Reports indicate that police officers arrived and took the teachers to Harare central police station where it is believed they may also have been subjected to ill-treatment. Lawyers were reportedly initially denied access to the teachers by one Detective Chief Inspector Manjengwa; with one lawyer being forcibly escorted from the police station. Offers to transfer the teachers to hospital were rejected by police despite their need of medical attention. They were eventually transferred to Harare Central Hospital in a pick-up truck, from where, after several hours delay awaiting medical attention, they were transferred to the Avenues Clinic, where they were admitted for treatment.

2793. Concern was expressed that the assault and ill-treatment of the aforementioned persons may be directly related to their activities in defense of human rights, particularly their exercising of the right to freedom of expression and assembly. In view of reports of their ill-treatment, further concern was expressed for their physical and psychological integrity.

### **Responses from the Government**

2794. By a letter dated 2 April 2008 (resent on 13 May and 1 July 2008), the Government responded to the communication, indicating that the persons named in the communication are all facing police investigations. On 19 February 2008, the Progressive Teachers Union of Zimbabwe members went to ZANU PF Harare Provincial Headquarters where they threw fliers within the party premises. The fliers contained MDC political messages. This did not go down well with the ZANU PF supporters who were at the party headquarters. Subsequently a skirmish ensued between the ZANU PF supporters and members of the teachers association who were led by Raymond Majongwe. The police got wind of the disturbances and upon arrival at the party

headquarters, arrested nine members of the teachers association and two ZANU PF youths. Observations made by the police at the time of arrest were that indeed some of the members of the Progressive Teacher's Association had sustained injuries as a result of the scuffle. All the suspects were taken to the police station where initial documentation was done and arrangements made for the injured to be taken to hospital. At no time were the suspects subjected to any form of ill-treatment by the police as alleged in the communication. It was important for suspects to be taken to a government hospital first, to facilitate for the obtaining of a medical report that would be acceptable in court since the injuries were as a result of an assault that was subject of investigation. It is not true that they were assaulted by unidentified youths. Two ZANU PF youths Trymore Chikupala (33) and Cleopas Gutsa (26) are being charged for assaulting them. At no stage did the police assault or ill-treat them. It is also not true that the injured were denied access to medical attention, as it is the police who ferried the suspects in a police vehicle to a government hospital. It is unfair to suggest that the delay in attending to the suspects at the hospital can be apportioned to the police. The police do not run hospitals but police stations. The Government indicated that it did its part by taking them to the hospital. In Zimbabwe most of the operation vehicles are pick-ups and to infer that we should have used a more comfortable vehicle is also misplaced. It is a blatant lie that the accused were released without any charge. Members of the PTUZ were charged for contravening Chapter 46 of the Criminal Codification Reform Act Chapter 9.23, 'Criminal nuisance'. After their discharge from the Avenues Clinic, they appeared in court on 5 March 2008 and were released on \$50 million bail each while the two ZANU PF youth were also released under the same bail conditions. They will appear before a court on 19 March 2008.

### **Urgent appeal**

2795. On 8 May 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning the situation of Mr **Dzimbabwe Chimbga**, lawyer and member of the non-governmental organization Zimbabwe Lawyers for Human Rights (ZLHR). Mr Chimbga was the subject of an urgent appeal sent by the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders on 28 March 2007. According to the information received:

2796. On 2 May 2008, on his way to Swaziland to attend the 43rd Ordinary Session of the African Commission on Human and Peoples' Rights, Mr Dzimbabwe Chimbga was approached by security agents before the immigration desk at Harare International Airport. A total of nine confidential sets of documents were reportedly seized. These documents were case files of communications and complaints set to be argued by a ZLHR legal team against the Government of Zimbabwe. Also taken were copies of pre- and post-elections reports. The security agents recorded the personal and professional details of Mr Chimbga, and warned him that they were going to "deal with [him] when [he] return[s] to Zimbabwe".

2797. Concern was expressed that these acts of intimidation against Mr Chimbga and the seizure of the aforementioned documents may be solely related to his non-violent activities in defense of human rights.

### **Urgent appeal**

2798. On 16 May 2008, the Special Rapporteur on the situation of human rights defenders, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the question of torture sent an urgent appeal to the Government regarding Mr **Lovemore Matombo** and Mr **Wellington Chibebe** (or Chibhebhe), respectively President and Secretary General of the Zimbabwe Congress of Trade Unions (ZCTU), and Mr **Raymond Majongwe**, General Secretary of the Progressive Teachers' Union of Zimbabwe (PTUZ).

2799. Both Mr Matombo and Mr Chibebe were the subject of an urgent appeal jointly sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the then Special Representative of the Secretary-General on the situation of human rights defenders on 15 September 2006. In addition, Mr Chibebe was the subject of two joint urgent appeals by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders, dated 15 February 2005 and 21 August 2006. Mr Majongwe was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the right to education, Special Rapporteur on violence against women, its causes and consequences and the then Special Representative of the Secretary-General on the situation of human rights defenders on 25 February 2008. While we appreciate the reply of your Government to the communication sent on 21 August 2006 and 25 February 2008, we regret that responses to the communications of 15 February 2005 and 15 September 2006 have not yet been received.

2800. According to new information received, on 8 May 2008, Mr Lovemore Motombo and Mr Wellington Chibebe were both arrested allegedly in connection with May Day speeches, during which they spoke about the political crisis due to the postponement of the announcement of the election results, and the ensuing wave of violent intimidation of opposition supporters. They were charged with "inciting people to rise against the Government and reporting falsehoods about people being killed". On 6 May, heavily armed police personnel had come to their homes to search them. On 7 May, they voluntarily reported to the police station, but were not taken in before 8 May 2008. They are currently held at the Harare Remand Prison. They have applied for release on bail, but the High Court of Zimbabwe will not deliver its judgment on this application until 19 May 2008.

2801.

2802. On 16 May 2008, Mr Raymond Majongwe was arrested by the police at the High Court of Zimbabwe in Harare while he was attending the bail hearing of Mr Lovemore Matombo and Mr Wellington Chibebe. This arrest was allegedly in connection with the work of PTUZ in documenting the harassment of teachers at their workplace within the context of the current political violence in the country.

2803. Concern was expressed that the arrests of Mr Lovemore Matombo, Mr Wellington Chibebe and Mr Raymond Majongwe may have been related to their work in defence of human rights, and in particular, to their reportedly peaceful exercise of the right to freedom of expression. Further concern was expressed for their physical and psychological integrity while in detention, especially because both Mr Lovemore Matombo and Mr Wellington Chibebe were reportedly severely tortured in police custody in September 2006. Finally, concern was expressed that these latest incidents may have formed part of a continuous pattern of harassment and repression of Zimbabwe's human rights defenders, including trade union leaders.

### **Urgent appeal**

2804. On 6 June 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women, its causes, sent an urgent appeal regarding the situation of Mr **Philimon Sajeni**, member of the human rights non-governmental organisation Crisis in Zimbabwe Coalition (CZC) and another member whose identity has yet to be confirmed; Ms **Jenni Williams**, national coordinator of Women of Zimbabwe Arise (WOZA), a grassroots organization working to promote and protect women's activism, Ms **Magadonga Mahlangu**, co-leader of WOZA, and **12 other WOZA members**, including one male belonging to WOZA's sub-division, Male of Zimbabwe Arise; **members of the Zimbabwe Election Support Network (ZESN)** whose identities have yet to be confirmed; and Mr **Musaiona Shortgame**, a Gutu Resident Magistrate who has recently presided over several cases of political violence.

2805. Since 2004, Ms Jenni Williams, Ms Magadonga Mahlangu and several other WOZA members were the subject of several communications sent:

2806. On 29 Sept 2004 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders. No response from your Government has been received as of today;

2807. On 19 April 2005 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders. No response from your Government has been received as of today;

2808. On 20 May 2005 by the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the promotion and protection of the right to

freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders. No response from your Government has been received as of today;

2809. On 28 June 2005 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, its causes and consequences and the then Special Representative of the Secretary-General on the situation of human rights defenders. We acknowledge receipt of the response of your Government received on 31 August 2005;

2810. On 16 February 2006 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders. We acknowledge receipt of the response of your Government received on 31 March 2006;

2811. On 15 September 2006 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences and the then Special Representative of the Secretary-General on the situation of human rights defenders. No response from your Government has been received as of today.

2812. On 7 December 2006 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, its causes and consequences and the then Special Representative of the Secretary-General on the situation of human rights defenders. We acknowledge receipt of the response of your Government received on 15 December 2006;

2813. On 12 June 2007 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the then Special Representative of the Secretary-General on the situation of human rights defenders. We acknowledge receipt of the responses of your Government received on 19 June and 4 September 2007. According to new information received:

2814. On 30 May 2008, Mr Philimon Sajeni was arrested, together with another member, at the premises of the CZC by law enforcement officers and alleged Central Intelligence Organisation (CIO) agents. After searching the premises for broadcasting equipment, the authorities drove the 2 CZC members around for some time before releasing them with no charges. On 2 June 2008, four men allegedly belonging to the CIO urged the guard of the CZC office to inform them about the activities of the Coalition. The guard refused to open the gate, and the four men warned him that they would come back.

2815. On 28 May 2008, Ms Jenni Williams, Ms Magadonga Mahlangu and 12 other WOZA members were arrested in Harare during a reportedly non-violent demonstration. The police reportedly used force to apprehend the demonstrators. They are all charged with distributing materials likely to cause a breach of the peace under Section 37 of the Criminal Law (Codification and Reform) Act. Ms Jenni Williams is further charged for publishing or communicating false statements prejudicial to the State under Section 31 of the same Act. On 30 and 31 May 2008, some WOZA members appeared in court and were granted bail. However, the State prosecutor appealed the decision and the 14 WOZA have since remained in custody: the 13 female WOZA members are being held at Chikurubi Maximum Security Prison; the male WOZA member is being held at Harare Central Remand Prison. Conditions of detention in both facilities are reportedly difficult. The 14 WOZA members are due to appear in court again on 6 June 2008.

2816. In mid-May 2008, three ZESN members were reportedly assaulted by members of the Zimbabwe African National Union – Patriotic Front militia in Mt Darwin East, Mutyandaedza village. They were later transported to Mt Darwin District Hospital for treating fractured arms, fractured fingers, deep cuts and bruises. However, admission to the hospital was reportedly denied to them.

2817. On 21 April 2008, the car of Mr Musaiona Shortgame, parked outside his home in Mupandawana Growth Point, was set on fire by three unidentified individuals who ran away when Mr Shortgame came out. Mr Shortgame reportedly received a series of death threats prior to this incident.

2818. Serious concerns were expressed that the arrest of Mr Philimon Sajeni and his CZC colleague, the arrest and detention of Ms Jenni Williams, Ms Magadonga Mahlangu and 12 other WOZA members, the assault against the three ZESN members and the threats and act of harassment against Mr Musaiona Shortgame may be related to their reportedly non-violent activities in defense of human rights, in particular for some of them in the exercise of their right to freedom of opinion and expression. Further concern was expressed that these incidents may form part of a pattern of harassment against human rights defenders in the aftermath of the 29 March elections.

### **Urgent appeal**

2819. On 23 June 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal regarding Mr. **Eric Matinega**, a registered lawyer and current Advocate of the High Court of Zimbabwe. Mr. Matinega is also an elected Member of the House of Assembly of Zimbabwe for Buhera West Constituency. According to the information received:

2820. On 31 May 2008, Mr. Matinega travelled to Buhera to investigate the alleged arrest, assault and detention of his clients and to enforce a court order he had obtained against Zimbabwe's Defence Forces in Buhera West Constituency over persecution of

supporters of the Movement for Democratic Change. Upon arrival at Buhera police station, Mr. Matinenga requested to visit his clients and produced his Law Society of Zimbabwe identity. However, he was denied access to his clients and instead he was subjected to questioning by an Assistant Inspector. Mr. Matinega was advised by the said inspector that he would not be allowed to see the persons in question, but was free to leave. When Mr. Matinenga re-claimed his right to see his clients, Major Svosve arrived at the scene and consulted privately with the Assistant Inspector. At 00:30 hours, following this consultation, the Assistant Inspector advised Mr. Matinega that he had been instructed to arrest and detain him on unspecified charges of “public violence”. Furthermore, Mr. Matinega’s car was searched and confiscated, although nothing incriminating could be found.

2821. On 1 June, Mr. Matinega’s legal counsel came to the police station and was allowed to see Mr. Matinega. When the legal counsel asked the representatives of the Criminal Investigation Department (CID) to specify the charges, they said that they did not know the reasons for his arrest. The CID representatives promised to return early on 2 June in order to take Mr. Matinega to court. On 2 June, the alleged investigating officer, Chief Superintendent Makone, decided to transfer Mr. Matinenga to Mutare, where he was detained overnight at Mutare Central police station.

2822. On 3 June, Mr. Matinega was charged with “contravening section 187 (1) (a) as read with section 26 (1) (a) of the Criminal Law Act for incitement to public violence”. Mr. Matinega denied the allegations orally and in writing. On the same day, when Mr. Matinega’s lawyers approached the Area of the Public Prosecutor to see whether Mr. Matinega could be brought before the court, they were told that the Area of the Public Prosecutor was busy and hence this was not possible.

2823. On 5 June, Regional Magistrate, Mrs. Mwayera, ordered Mr. Matinega’s immediate release as Mr. Matinega had spent four days in custody, which was beyond the legally provided period of detention.

2824. After one day of freedom, in the morning of 7 June, Mr. Matinega was once again arrested by the police at his Harare home. He was driven by the police to Buhera and detained at Murambinda police station. His lawyers urgently petitioned the High Court, presided over by Justice Chitakunye, who ordered in form of a provisional court order to produce Mr. Matinenga at 10:00 on 8 June 2008 before the court. The order also stated that the reasons for detaining Mr. Matinega should be produced in the absence of which Mr. Matinenga should be immediately released.

2825. As Mr. Matinega was not produced before the court as requested by Justice Chitakunye, the provisional court order was confirmed as the final order of the court. However, Chief Superintendent Makone, declared to Mr. Matinega’s legal counsels that he would not comply with the order. Police officers tried to compel Mr. Matinega to sign new statements which he refused to do. Mr. Matinega was then detained at Buhera police station in spite of the court order for his immediate release.

2826. Mr. Matinega's lawyers subsequently filed a contempt of court application which is now pending before the High Court.

2827. On 10 June, Mr. Matinega was transferred from Buhera police station to Rusape police station. On 11 June, none of the magistrates in Rusape were prepared to preside over the matter as they were reportedly aware of the existing court orders as well as the pending application for contempt of court. Mr. Matinega was locked up at the Rusape police station.

2828. On 13 June, Chief Magistrate, Herbert Mandeya, heard the case and decided on 14 June to place Mr. Matinega on remand, following a fresh application by the Attorney General's office, for the same charges dismissed by the previous magistrate on 4 June 2008 and despite the High Court order for his release dated 8 June 2008. An application for bail was made, which was granted by the court. However, a representative of the Attorney-General's office invoked section 121 of the Criminal Procedure and Evidence Act to keep Mr. Matinega in custody pending appeal of the decision to grant bail. Mr. Matinega was then remanded in custody at Rusape Remand Prison until 26 June where he is still being detained.

### **Urgent appeal**

2829. On 30 June 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding the situation of **lawyers, judges and human rights defenders in Zimbabwe**, in particular Mr. **Mawadza**, Bindura Provincial Magistrate; **Ernest Jena**, lawyer; and Mr. **Trust Maanda**, Zimbabwe Lawyers for Human Rights Regional Project Manager. According to the information received:

2830. On 23 June, Magistrate Mawadza was attacked and assaulted by Zimbabwe African National Union – Patriotic Front (ZANU-PF) youths as he left a supermarket in Bindura. He had previously granted bail to detained Movement for Democratic Change (MDC) activists. Mr. Mawadza continues to live in fear as no protection has been provided by the state.

2831. On 24 June 2008, around 9:00 am, Mr. Ernest Jena was abducted from his office by ZANU-PF youths who forced him into a green car. Some of the youths came back to his office looking for his assistant, Mr. Mashayamombe. They told Mr. Mashayamombe that Mr. Jena was at a base in Bindura. There are three ZANU-PF bases in Bindura, i.e. in Chiwaridzo, Chipadza and another. Mr. Jena was scheduled to appear before Magistrate Mr. Mawadza to argue matters of other detained activists. Reports from Mashonaland Central province suggest that Mr. Jena is being taken around to ZANU-PF militia bases across the province and being 'taught a lesson'. It is reported that he was last seen or heard of at a base in Chiweshe. However, his concrete whereabouts continue to remain unknown.

2832.



2833. On 23 June 2008, between 10.00 p.m. and 12.00 a.m., the police attempted to search the house of Mr. Trust Maanda without a warrant. When Mr. Maanda refused to open the door, they forced the gardener to open the gate. The police then searched the gardener's lodgings, but could not find anything of interest. They interrogated and threatened the gardener and then requested him to appear at the police station at 9:00 a.m. the following day.

2834. On 24 June 2008, just before midnight, Mr. Trust Maanda returned home after working late when his way was blocked by several ZANU-PF militias waving placards. When he stopped the car, three or four of the militia forced him to turn the car and drive back to town. He called Mr. Tinoziva Bere, Law Society of Zimbabwe Counselor, who drove to meet him. The two met and had to wait at a roadblock at Mutare Teachers college gate where they asked the police officers for help. However, they refused to assist and referred the two to Mutare Central Police. They were required to wait at that police station until they received reports that the militias had moved away from Mr. Maanda's house. Mr. Bere then escorted Mr. Maanda to his house around 1.15 a.m. and left only after Mr. Maanda had entered his house.

### **Urgent appeal**

2835. On 8 July 2008, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal to the Government regarding Ms **Jenni Williams** and Ms **Magodonga Mahlangu**, National Coordinator and Co-leader of Women of Zimbabwe Arise (WOZA) respectively. WOZA is a grassroots organization which works to promote and protect women's activism.

2836. Since 2004, nine other communications were sent regarding Ms Jenni Williams, Ms Magodonga Mahlangu and several other WOZA members. The most recent one was sent on 6 June 2008, by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on violence against women. No response from the Government was received.

2837. According to new information received, on 3 July 2008, Ms Jenni Williams and Ms Magodonga Mahlangu were released on bail after over one month's detention in Chikurubi Maximum Prison in Harare. They were scheduled to stand trial on 17 July 2008 on charges of "distributing material likely to cause a breach of the peace" under Section 37 of the Criminal Law (Codification and Reform) Act. Ms Jenni Williams was also charged with "causing disaffection among defence forces" under Section 30, and "publishing or communicating false statements prejudicial to the State" under Section 31 of the Criminal Law Act. She faced a maximum of 20 years' imprisonment whilst Ms Magodonga Mahlangu faced a maximum of 5 years' imprisonment.

2838. The two human rights defenders were previously arrested on 28 May 2008 in Harare at a peaceful demonstration against violence perpetrated by the state. 12 other

members of WOZA were also arrested. They too were charged under Section 37 of the Criminal Law Act, were scheduled to stand trial on 17 July 2008, and faced a maximum of 5 years' imprisonment.

2839. Serious concerns were expressed that the charges brought against Ms Jenni Williams, Ms Magadonga Mahlangu and the 12 other members of WOZA may have been related to their non-violent activities in the defense of human rights, in particular their work against state-sponsored violence in Zimbabwe. Further concern was expressed that these incidents may have formed part of a pattern of harassment against human rights defenders in the aftermath of the 29 March elections.

### **Urgent appeal**

2840. On 27 October 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the right to education and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal in relation to **demonstrations organised by the Zimbabwe National Students Union (ZINASU) and Women of Zimbabwe Arise (WOZA).**

2841. Previous communications were sent to your Government by various mandate-holders regarding ZINASU on 15 May 2006, 19 February 2007, 20 March 2007 and 20 July 2007. Responses from your Government were received on 21 May 2004, 5 August 2004, and 12 October 2007. Several communications have been sent regarding WOZA. Most recently, the Special Rapporteur on the situation of human rights defenders sent a communication regarding Ms. Jenni Williams and Ms. Magadonga Mahlangu of WOZA on 8 July 2008. No response has yet been received from your Government. According to information received:

2842. On 14 October 2008, at approximately 2.15 p.m., over 500 demonstrators gathered outside August House to present a petition to the Government of Zimbabwe in defence of their right to education. The petition reportedly addressed sanitation problems in colleges, uninhabitable student residences, educational materials, access to education and quality of education, academic freedom and institutional autonomy, and the closures of schools in Zimbabwe. The demonstrations included a march which was disrupted four times by armed riot police from the Zimbabwe Republic Police (ZRP). The President of the ZINASU, Mr Clever Bere; the Secretary General, Mr Lovemore Chinoputsa; the Legal and Social Affairs Secretary, Mr Courage Ngwarai; a General Councillor, Ms Edwina Burira; and a Youth Forum member, Mr (or Ms ??) Tawanda Mutema, were all arrested.

2843. Some demonstrators were also hospitalised because of police violence. The Gender and Human Rights Secretary, Ms Priviledge Mutanga was assaulted, sustaining head injuries and a swollen arm. Mr or Ms ?? Obert Masaraura, a General Councillor from Midlands State University, also sustained serious head injuries.

2844. On 16 October 2008, a different peaceful demonstration was organised by WOZA to call for food to be provided for all Zimbabweans. Police reportedly used force against demonstrators, including the Co-leader of WOZA, Ms Magodonga Mahlangu, with batons breaking one woman's finger and causing bruises to another two women. Nine arrests were made in total. Seven demonstrators who had been arrested before the demonstrations began were released on the same day without charge after the intervention of a lawyer. However, on 17 October, Ms Jenni Williams, the National Coordinator of WOZA, and Ms Magodonga Mahlangu were remanded in custody until 21 October 2008. They are reportedly denied the right to access a lawyer, and it is not clear what charges were brought against them.

2845. Serious concern was expressed that the action taken against the demonstrators mentioned above may be directly related to their legitimate activities in the defence of human rights. Further concern was expressed for the physical and psychological integrity of both groups of demonstrators. It is feared that these incidents form part of an ongoing pattern of harassments against demonstrators petitioning to defend human rights in Zimbabwe.

### **Urgent appeal**

2846. On 4 December 2008, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders sent an urgent appeal regarding the situation of Ms **Jestina Mukoko**, director of the non-governmental organization Zimbabwe Peace Project, and **members of the non-governmental organization Zimbabwe Lawyers for Human Rights (ZLHR)** as well as Mr **Wellington Chibebe**, Secretary General, and other members of the **Zimbabwe Congress of Trade Unions (ZCTU)**, including Mr **Zansi Mabunda**, Mr **Charles Chikonzo**, Mr **Denzel Mushayi** and Mr **Ngoni Nyanhete**. Mr Chibebe was the subject of an urgent appeal jointly sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the situation of human rights defenders on 16 May 2008; an urgent appeal jointly sent by the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the then Special Representative of the Secretary-General on the situation of human rights defenders on 15 September 2006; and two joint urgent appeals by the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the then Special Representative of the Secretary-General on the situation of human rights defenders, dated 15 February 2005 and 21 August 2006.

2847. According to the information received, in the early hours of 3 December 2008, Ms Mukoko was reportedly arrested at her home in Harare by a group of approximately 15

armed men, allegedly belonging to the Central Intelligence Organisation. She was then taken to an unknown location and her whereabouts are currently unknown.

2848. On 3 December 2008, at approximately 10:00 a.m., Messrs Mabunda, Chikonzo, Mushayi, Nyanhete and 28 other members of the Zimbabwe Congress of Trade Unions (ZCTU) were arrested in the town of Gweru. The ZCTU members had gathered in order to present a petition to the Regional Governor to protest against the limits placed on the daily amount of cash that can be withdrawn from banks. The group was prevented from presenting the submission to the Governor and was taken to Gweru Central Police Station. A further 10 members of ZCTU, including the Union's Secretary General, Mr. Chibebe, were arrested in the Central Business District of Harare. The demonstration had been organized in order to present a similar petition to that prepared by their colleagues in Gweru, to Mr Gideon Gono, the Governor of the Reserve Bank of Zimbabwe. Reports claim that prior to the arrests, police and armoured vehicles had cordoned off Samora Machel Avenue in Harare and that at least five people were beaten by police officers.

2849. On the same day, the premises of ZLHR in the southern city of Bulawayo were raided by the police. Members of ZLHR were reportedly accused by the police of supporting the petition of the ZCTU. No arrest was undertaken.

2850. Serious concern was expressed that the arrest and detention of Ms Jestina Mukoko, Mr Wellington Chibebe, Mr Zansi Mabunda, Mr Charles Chikonzo, Mr Denzel Mushayi, Mr Ngoni Nyanhete and other members of the ZCTU, as well as the police raid on the premises of ZLHR may be linked to their human rights advocacy work. Further concern was expressed for the physical and mental integrity of Ms Jestina Mukoko, Mr Wellington Chibebe, Mr Zansi Mabunda, Mr Charles Chikonzo, Mr Denzel Mushayi, Mr Ngoni Nyanhete and other members of the ZCTU while in detention.

### **Urgent appeal**

2851. On 10 December 2008, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders sent an urgent appeal to the Government the situation of Mr **Zacharia Nkomo**, brother of the human rights lawyer Mr Harrison Nkomo; Mr **Broderick Takawira**, provincial coordinator of the Zimbabwe Peace Project (ZPP); and Mr **Pascal Gonzo**, ZPP driver.

2852. Ms Jestina Mukoko, Director of the ZPP and Board Member of the Zimbabwe Human Rights NGO Forum, was the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders on 4 December 2008.

2853. According to the information received, on 5 December 2008, Mr Zacharia Nkomo was reportedly abducted by four unidentified men at his home in Masvingo. The whereabouts of Mr Nkomo were unknown at the time when the urgent appeal was sent.

2854. On 8 December 2008, at the ZPP premises in Harare, a group of five unidentified men, after luring the ZPP security guard, abducted Messrs Broderick Takawira and Pascal Gonzo. The whereabouts of Messrs Takawira and Gonzo are currently unknown. A complaint was filed with the police by the non-governmental organization Zimbabwe Human Rights Lawyers.

2855. Grave concern was expressed that the abductions of Messrs Zacharia Nkomo, Broderick Takawira and Pascal Gonzo may have been linked to their non-violent activities in defence of human rights or to the human rights activities of their relatives, and may have formed part of a renewed pattern of harassment against human rights defenders in Zimbabwe. Further concern was expressed for their physical and psychological integrity.

### **Observations**

2856. The Special Rapporteur thanks the Government for its responses, but regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications of 8 May 2008, 16 May 2008, 6 June 2008, 23 June 2008, 30 June 2008, 8 July 2008, 27 October 2008, 4 December 2008 and 10 December 2008. She considers response to her communications an important part of the cooperation of Governments with her mandate. She urges the Government to respond to the concerns raised by her, and provide detailed information regarding investigations undertaken, prosecutions as well as protective measures taken.

2857. The Special Rapporteur remains deeply concerned at the persistent challenges faced by human rights defenders in Zimbabwe, including assault, ill-treatment, threats and acts of intimidation, and arbitrary arrest and detention of defenders while exercising their right to freedoms of opinion and expression and peaceful assembly. The Special Rapporteur urges the Government to permit peaceful protests and to refrain from excessive or disproportionate use of force against peaceful exercise of the rights to protest against human rights violations. The Special Rapporteur further urges the Government to release all human rights defenders arbitrarily detained and ensure justice to all victims of human rights violations.

2858. The Special Rapporteur notes the response of the Government to her request of November 2008 to visit the country, in which it indicated that the request is receiving due attention and that the Special Rapporteur will be notified as soon as suitable dates have been worked out. The Special Rapporteur wishes to express her hope that the possibility of a visit will soon be materialized.

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