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**PROMOTION AND PROTECTION OF HUMAN RIGHTS:**

**HUMAN RIGHTS DEFENDERS**

**Report of the Special Representative of the Secretary-General, Hina Jilani**

**Addendum**

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

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

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### **Introduction**

1. The present document is submitted by the Special Representative of the Secretary General on the situation of human rights defenders, Ms. Hina Jilani, to the Commission on Human Rights pursuant to Commission resolution 2003/64. The document provides summaries of the communications on specific cases addressed by the Special Representative to Governments, as well as summaries of the replies by Governments that she has received and her observations thereon.

2. In the past, such information had been included in an annex. Following up on a practice adopted in her report to the Commission at its fifty-ninth session, the information on specific cases raised by the Special Representative over the year is now published in an addendum to her main report to the Commission at its sixty-first session (E/CN.4/2005/101).

3. The cases raised by the Special Representative in this addendum relate to cases reported to her between 9 December 2003 and 9 December 2004. The addendum contains summaries of responses received from Governments and, where necessary, translated up to and including 31 January 2005. Most of the responses by Governments refer to cases raised by the Special Representative during the period December 2003 to December 2004; however, some of the responses are to cases addressed by her 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 Special Representative's reports from preceding years (see E/CN.4/2003/104/Add.1 and E/CN.4/2004/94/Add.3, covering the previous two years).

4. For ease of reference, and as indicated in the table of contents, cases have been grouped by country, with countries listed alphabetically according to their names in English.

## Algeria

### Communications envoyées

5. Le 19 avril 2004, 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 adressé une communication au gouvernement concernant la situation de **Mohammed Smaïn** et **Fethi Azzi**, deux témoins dans une information judiciaire ouverte en France contre deux membres des milices de Relizane pour torture et actes de barbarie. Selon les informations reçues, la mise en examen des deux accusés ferait suite à une plainte pour torture, actes de barbarie et crimes contre l'humanité déposée en octobre 2003 devant le Procureur de la République du Tribunal de grande instance de Nîmes par la Fédération internationale des ligues des droits de l'homme (FIDH) et la Ligue française des droits de l'homme et du citoyen (LDH). Les deux accusés, après avoir été mis en examen le 30 mars 2004, auraient été libérés et placés sous contrôle judiciaire suite à la décision du juge des libertés et de la détention (JLD). Selon les informations reçues, Mohammed Smaïn et Fethi Azzi subiraient des pressions et harcèlements de la part des autorités depuis leur retour de France au début d'avril 2004 où ils auraient témoigné devant le juge d'instruction. En particulier, le 5 avril 2004, alors qu'il reprenait son travail à la sous-préfecture, Fethi Azzi se serait vu signifier son renvoi. M. Azzi aurait depuis été réintégré après avoir été dégradé et muté dans un autre service de la sous-préfecture. Il aurait d'autre part reçu des menaces à Jdiouia où il réside, pour avoir témoigné dans l'affaire des deux présumés miliciens. Selon les informations reçues, Mohammed Smaïn, représentant de la section de Relizane de la Ligue algérienne de défense des droits de l'homme (LADDH), aurait été arrêté par le groupement de gendarmerie de Relizane le samedi 10 avril 2004 alors qu'il se trouvait en compagnie de journalistes enquêtant sur les disparitions forcées et détenu pendant 20 heures. Dimanche matin, le colonel commandant du groupement de gendarmerie lui aurait signifié qu'il serait poursuivi pour outrage à corps constitué et aurait refusé de lui rendre ses papiers de voiture. Smaïn aurait alors demandé une audience au Procureur général, ce qui lui aurait été refusé.

6. Le 27 mai 2004, 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 communication concernant le directeur du quotidien « Le Matin », **Mohamed Benchicou**, pour lequel un appel urgent avait été envoyé par le Rapporteur spécial sur la protection et la promotion du droit à la liberté d'opinion et d'expression le 4 avril 2002. Selon les informations reçues, Mohamed Benchicou aurait dû comparaître le 31 mai 2004 devant le tribunal d'El Harrach, dans le cadre d'une affaire qui l'oppose au Ministère des finances. Selon les informations reçues, le journal « Le Matin » aurait été suspendu le 18 août 2003, en même temps que quatre autres quotidiens indépendants. Le 23 août 2003, revenant d'un voyage, Mohamed Benchicou aurait été interpellé à l'aéroport d'Alger par des policiers qui lui auraient indiqué vouloir fouiller son porte-documents et ses bagages. Les policiers auraient photocopié ses papiers personnels avant de les lui rendre. En dépit du fait que, par lettre du 25 août 2003, le directeur général des douanes algériennes ait averti le gouvernement algérien de la nullité de la procédure frappant M. Benchicou et de l'absence d'infraction, le jour suivant, M. Benchicou aurait été entendu pour transfert illégal de capitaux, et le 27 août 2003, le Procureur de la République aurait exigé qu'il soit placé sous mandat de dépôt. Le juge d'instruction n'aurait toutefois retenu que le contrôle judiciaire et aurait confisqué le passeport de Mohamed

Benchicou qui serait soumis depuis lors à une interdiction de quitter le territoire et astreint à se présenter au juge d'instruction toutes les semaines. Selon les informations reçues, le 31 mai 2004, le magistrat devrait juger l'affaire et statuer sur la levée du contrôle judiciaire qui frappe Mohamed Benchicou depuis 8 mois. Des craintes ont été exprimées que les procédures à l'encontre de M. Benchicou et du journal « Le Matin » ne constituent une forme de représailles de la part du Ministère de l'intérieur pour avoir fait paraître en juillet 2003 un article dans lequel un citoyen algérien aurait dénoncé les tortures qu'il aurait subies mettant en cause le Ministre de l'intérieur lui-même. Ces craintes sont d'autant plus vives que le ministre mis en cause aurait publiquement menacé « Le Matin » et son directeur.

7. Le 28 mai 2004, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, avec le Groupe de travail sur la détention arbitraire, la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé une communication concernant la situation de M. **Hafnoui El Ghoul**, responsable de la Ligue algérienne de défense des droits de l'homme (LADDH) à Djelfa et correspondant de presse. Selon les informations reçues, le 24 mai 2004, M. El Ghoul aurait été arrêté par des policiers en civil se déplaçant en voiture banalisée. Il aurait été conduit depuis son domicile jusqu'à une cellule où il serait depuis lors enfermé. Cette détention interviendrait dans le cadre de l'instruction de plusieurs plaintes pour diffamation déposées contre lui, notamment par le préfet et le directeur de la santé publique de Djelfa, à la suite d'un entretien qu'il aurait donné au quotidien national « Le Soir », daté du 17 mai 2004, où il aurait dénoncé la situation des droits de l'homme en général, et celle des journalistes en particulier dans la région de Djelfa. Selon les informations reçues le 25 mai 2004, M. Ghoul aurait été présenté devant le juge du tribunal de Djelfa et condamné à six mois de prison ferme au sujet d'une quatrième plainte. Ses avocats n'auraient pas eu connaissance de cette audience ni de l'objet de la plainte en question. Le 26 mai, sa famille aurait été empêchée de lui rendre visite. M. El Ghoul aurait entamé une grève de la faim. Des craintes ont été exprimées que son arrestation ne représente une forme de représailles contre ses activités de défense des droits de l'homme. Ces craintes sont d'autant plus vives que lors d'une convocation au commissariat de Djelfa, le 15 mai 2004, M. El Ghoul aurait reçu des menaces de mort explicites, visant également sa famille s'il continuait à « s'entêter ».

8. Le 7 juin 2004, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Groupe de travail sur la détention arbitraire, le Rapporteur spécial sur la torture et la Rapporteuse spéciale chargée de la question de la violence contre les femmes, a envoyé une communication concernant la situation des **personnes qui auraient été arrêtées pour avoir manifesté dans la région des Aurès** et pour lesquels les Rapporteurs spéciaux sur la promotion et la protection du droit à la liberté d'opinion et d'expression, la torture, les exécutions extrajudiciaires, sommaires ou arbitraires ainsi que le vice-président du Groupe de travail sur la détention arbitraire avaient envoyé un appel urgent le 24 mai 2004. Selon les informations reçues, les 24 et 31 mai 2004, vingt-neuf personnes arrêtées auraient comparu devant le tribunal d'Arris et auraient été condamnées pour attroupements, incitation à attroupement, diffusion de tracts et atteinte aux biens d'autrui, avec les peines suivantes : **Meziani Fouzi** (8 mois), **Beziane Abdelouahab** (6 mois), **Abassi Rachid** (6 mois), **Daoudi Essaid** (6 mois), **Aichi Hessane** (8 mois), **Yeza Abdeslam** (8 mois), **Titaouine Salim** (8 mois), **Lounissi Abdelkrim** (6 mois), **Yakoub Abderrezak**, (8 mois), **Zerdoumi Abdelmadjid** (6 mois), **Chatri Khaled** (3 mois), **Saidi Rachid** (6 mois), **Berbachli Ali** (3 mois), **Kerbai Samir** (3 mois), **Kerbai Mohamed Tayeb**

(3 mois), **Meziani Karim** (3 mois), **Gharik Ahcene** (3 mois), **Bezala Essaid** (3 mois), **Yeza Salim** (8 mois), **Megharmi djamel** (1 an), **Boussetta Abdenacer** (8 mois), **Djouara Djamel** (8 mois), **Yeza Mohamed** (3 mois), **Khellafi Toufik** (3 mois), **Agali Abderrezak** (3 mois), **Titaouine Ali** (6 mois), **Bezala Ali** (6 mois), **Lounissi Tahar** (3 mois), **Zerdoumi Amar** (6 mois). Les jeunes gens arrêtés, pendant les manifestations ou à leur domicile, auraient été conduits dans des véhicules militaires à l'ancienne prison coloniale, lieu de cantonnement de la gendarmerie de Tkout où ils auraient été déshabillés et alignés avant d'être torturés et soumis à des agressions sexuelles, insultes et coups de matraque. Certains auraient eu des membres brisés et le visage balaféré suite aux coups que leur auraient portés les gendarmes. Des menaces de viol sur les sœurs et mères des détenus auraient également été proférées. En raison de la couverture médiatique des événements, et notamment des témoignages dans la presse relatant les tortures subies, une enquête aurait été conduite le 26 mai par des fonctionnaires du Ministère de la justice dépendant de la cour de Batna. Ceux-ci auraient conclu à l'absence de torture en dépit du fait que neuf des jeunes gens arrêtés auraient réitéré les déclarations faites à la presse. En outre, des craintes ont été exprimées que ces enquêtes n'aient pas été conduites de manière indépendante et impartiale. Dans une lettre ouverte adressée au chef de l'Etat algérien, le procureur adjoint de la cour de Batna (dont dépend Tkout) aurait dénoncé les « pressions, intimidations, menaces et trafic d'influence » qu'il aurait subis dans l'exercice de ses fonctions et que subirait tous les magistrats « intègres ». L'auteur de la lettre mettrait directement en cause un officier supérieur de l'armée. Il nous a également été rapporté que plusieurs dizaines de membres du mouvement citoyen de Tkout, qui auraient fui pour se réfugier dans les montagnes environnantes, seraient toujours contraints de vivre dans la clandestinité en raison de la surveillance dont leurs domiciles feraient l'objet. Un important dispositif policier serait toujours en place dans le village de Tkout et les parents et membres des familles de ceux ayant fui feraient quotidiennement l'objet de menaces et d'intimidations, y compris des menaces de viol sur les femmes. Des craintes ont été exprimées que cette répression, y compris les condamnations des jeunes gens ayant participé aux manifestations, ne vise à réprimer les mouvements citoyens luttant pour le respect de leurs droits, notamment après que le mouvement citoyen de Tkout aurait présenté en mars dernier une plateforme de revendications socioéconomiques, culturelles et linguistiques aux autorités locales et régionales.

9. Le 14 juin 2004, la Représentante spéciale a envoyé un appel urgent concernant la situation de **Salah-Eddine Sidhoum**, chirurgien et militant des droits de l'homme en Algérie, qui avait fait l'objet d'un appel urgent du Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, du Rapporteur spécial sur la torture et de la Représentante spéciale sur les défenseurs des droits de l'homme le 2 octobre 2003 qui se verrait refuser l'établissement d'un passeport lui permettant de circuler librement. Selon de nouvelles informations, le 26 janvier 2004, Salah-Eddine Sidhoum aurait déposé un dossier de renouvellement de son passeport à la daïra (sous-préfecture) de Sidi M'Hamed (Alger). A chaque fois qu'il se serait présenté au guichet de cette administration, il lui aurait été répondu que la fiche de police n'était pas encore revenue du commissariat de Cavaignac, siège de la police judiciaire. Fin mai, plus de quatre mois après le dépôt de sa demande, le préposé au guichet de la daïra lui aurait répondu que la police judiciaire avait émis un avis défavorable pour la délivrance d'un passeport sans lui indiquer ni verbalement ni par écrit le motif de ce refus, alors que la loi stipulerait que l'administration doit signifier par écrit le motif du refus, et ce dans un délai de un mois après le dépôt du dossier. En outre, lors de la restitution de son dossier par le préposé de la daïra, M. Sidhoum aurait constaté que deux photos d'identité manquaient. De sérieuses craintes

ont été exprimées que ce refus d'octroyer un passeport à Salah-Eddine Sidhoum ne vise à l'empêcher de poursuivre son travail de défenseur des droits de l'homme en l'empêchant de quitter le territoire algérien afin de réduire ses mouvements et ses contacts sur le plan international.

10. Le 9 août 2004, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Groupe de travail sur la détention arbitraire, a envoyé une communication de suivi concernant M. **Hafnaoui Ghoul**, détenu à la prison de Djelfa depuis le 24 mai 2004. Selon les nouvelles informations reçues, le 2 août 2004, le tribunal de première instance de Djelfa aurait condamné M. Hafnaoui Ghoul à deux mois de prison ferme, pour « sortie illégale d'un document de prison ». Cette condamnation serait en relation avec la publication dans le quotidien « Essabah El Djadid » d'une lettre que M. Ghoul aurait envoyée à sa fille le 24 juin, et dans laquelle il s'exprimait sur sa situation juridique et sa détention. Des craintes ont été exprimées que cette nouvelle condamnation ne vise à nouveau à sanctionner la liberté d'expression de Hafnaoui Ghoul. Ces craintes sont d'autant plus vives que, depuis plusieurs mois, une quinzaine de plaintes ont été déposées contre M. Ghoul pour « diffamation et atteinte à un corps constitué ». Trois procès sont en cours, dont plusieurs audiences ont déjà été reportées.

11. Le 23 septembre 2004, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Rapporteuse spéciale sur la question de la violence contre les femmes, a envoyé une communication concernant un rassemblement pacifique des familles de disparus de Constantine ayant eu lieu le 20 septembre 2004 devant le siège provisoire du Comité ad hoc sur les disparus à Constantine qui aurait été dispersé par la violence par les forces de l'ordre, lesquelles auraient également procédé à des arrestations. D'après les informations reçues, M. **Hmamlia**, qui tentait de venir en aide aux personnes malmenées par la police, aurait été arrêté et conduit au poste de police avant d'être libéré quelques heures plus tard. Mme **Farida Oughlissi**, mère de disparu, aurait été frappée. Son corps serait marqué par de nombreuses ecchymoses. Mme **Louisa Saker**, Secrétaire générale de l'Association des familles de disparus de Constantine, aurait, quant à elle, été interpellée et emmenée par des éléments de la Brigade mobile de la police judiciaire (BMPJ) et détenue à la caserne de la police judiciaire de la zone Palma à Constantine. Ni les membres de sa famille, ni son avocat n'auraient été autorisés à lui rendre visite jusqu'à sa libération dans la soirée. Durant sa détention, Louisa Saker n'aurait pas été informée des motifs de son arrestation et aurait fait l'objet d'actes d'intimidation. Au moyen d'un couteau et d'une bombe lacrymogène, celle-ci aurait été menacée par des agents des services des Renseignements généraux d'être inculpée pour troubles à l'ordre public avant d'être relâchée dans la soirée sans qu'aucune charge n'ait été retenue contre elle. Suite à sa libération, un médecin aurait pu constater les traces sur son corps des violences subies lors du dispersement du rassemblement. Il a également été rapporté que Mme Louisa Saker avait déjà fait l'objet d'actes d'intimidation le 5 novembre 2003 de la part de deux inspecteurs des services des Renseignements généraux. L'arrestation et la détention de Mme Saker et M. Hmamlia ainsi que les méthodes utilisées pour disperser une manifestation pacifique sont d'autant plus préoccupantes que la police aurait déjà arrêté des membres des familles de disparus et fait usage de violence à leur encontre lors de rassemblements à Constantine le 8 novembre 2001, à Alger le 5 novembre 2002, et à Oran le 9 juillet 2003. S'agissant de Mme Saker, des craintes ont été exprimées que celle-ci n'ait été visée

en particulier, en raison de ses nombreuses prises de position critiques quant à la gestion du dossier des disparus par les autorités algériennes.

### **Communications reçues**

12. Par lettre en date du 18 juin 2004, le Gouvernement a répondu à la communication en date du 19 avril concernant **Mohamed Smail** et **Fethi Azzi**. Concernant Mohamed Smail, le Gouvernement a indiqué qu'il avait été interpellé le 10 avril 2004 sur les instructions du procureur de Relizane par la gendarmerie nationale alors qu'il se trouvait en voiture avec un journaliste étranger en possession d'une camera et effectuant un reportage sans autorisation. Les deux personnes auraient été conduites à la brigade avant d'être relâchées. Les documents de son véhicule lui auraient été retirés puis rendus. Concernant Fethi Azzi, le Gouvernement a indiqué qu'il n'aurait jamais été arrêté et qu'il n'aurait pas saisi les services de police en ce qui concerne les menaces alléguées. Le Gouvernement ne peut de ce fait faire de commentaire.

13. Par lettre en date du 16 juillet 2004, le Gouvernement algérien a répondu à l'appel urgent envoyé le 27 mai 2004 concernant la situation de **Mohamed Benchicou**, objet d'accusation de transfert illégal de capitaux. Le Gouvernement a informé la Représentante spéciale que le 14 juin 2004, l'intéressé aurait été condamné à deux ans de prison ainsi qu'à une amende de 23 400 000 DA, une somme qui correspond à deux fois la valeur du délit commis. Le Gouvernement a affirmé avoir agi selon son droit interne et précisé que personne, en dehors du juge, ne pouvait contester la mesure.

14. Par lettre en date du 16 juillet 2004, le Gouvernement a répondu à l'appel urgent envoyé par la Représentante spéciale le 28 mai 2004, l'informant que le 9 juin 2004 **Hafnaoui Ghoul** a été condamné à 2 mois d'emprisonnement pour les délits de diffamation, outrage et injures. Le Gouvernement a affirmé que, conformément à la loi, l'intéressé aurait reçu la visite de son père et de son frère, mais pas de son oncle. Le Gouvernement a également précisé que l'intéressé prendrait régulièrement ses repas et se trouverait en bonne santé. Par lettre supplémentaire du 24 novembre 2004, le Gouvernement a confirmé que le jour-même la décision de la cour de Djelfa aurait ordonné la libération de M. Hafnaoui El Ghoul en application de l'article 128 du Code de procédure pénale.

15. Par lettre en date du 16 juillet 2004, le Gouvernement a répondu à l'appel urgent envoyé par la Représentante spéciale le 7 juin 2004 concernant les **vingt-huit personnes** condamnées pour attroupements et atteintes aux biens d'autrui. Le Gouvernement a souligné que le jugement du tribunal le 31 mai 2004 aurait été plus ou moins soutenu par la cour de Batna le 20 juin 2004, laquelle aurait confirmé la peine prononcée contre vingt-trois d'entre eux et aurait déclaré la relaxe des cinq autres. En ce qui concerne les accusations de mauvais traitements pendant la garde à vue (il faut noter que ces accusations n'auraient été déposées qu'à la deuxième audience), le Gouvernement a informé que les certificats médicaux au terme de la garde à vue n'auraient pas fait mention de mauvais traitements. Néanmoins, le Ministre de la justice a ordonné une enquête, qui aurait conclu à la fausseté des allégations.

16. Par lettre en date du 9 juillet 2004, le Gouvernement a répondu aux appels urgents envoyés par la Représentante spéciale le 14 juin 2004 et le 2 octobre 2003 l'informant que le passeport de **Salah Eddine Sidhoum** aurait été renouvelé et remis à l'intéressé le 4 juillet 2004

après accomplissement des formalités légales d'usage relatives à la délivrance d'un document de voyage.

### **Observations**

17. The Special Representative thanks the Government for its replies. She welcomes the issuance of a passport to Dr. Sidhoum and the release of Mr. Ghoul. In the light of the case of Mr. Ghoul, however, the Special Representative recalls that the law of defamation requires legislators to strike a delicate balance between the protection of freedom of speech – particularly where this freedom is exercised in the defence of human rights – and the interests of the persons who are the subject of derogatory speech, in this case government officials. The Special Representative invites the Government to consider whether the possibility to resort to a measure as harsh as pre-trial detention for persons charged with defamation, as in the case of Mr. Ghoul, correctly strikes that balance.

18. The Special Representative regrets that the Government has not, as of to date, clarified the circumstances of the alleged harassment by the authorities of Mr. Smaïn and Mr. Azzi (including arrest, detention, and demotion in civil service), which is reported to be in reprisal for their testimony in a torture case, nor indicated what action it intends to take to remedy these serious violations should they prove to be true.

19. Regarding the case of Mr. Benchicou, the Special Representative has carefully considered the Government's explanation regarding the judicial proceedings that resulted in his conviction. She remains concerned, however, by the closure of *Le Matin* on the same day as four other newspapers and a few weeks after the publication of an article implying a minister in torture allegations, which was followed by the arrest of Mr. Benchicou five days later.

20. Similarly, in the case of the human rights defenders from Tkout, the Special Representative regrets that the Government's reply has not been able to entirely dispel her concerns. The Special Representative invites the Government to review, in the light of the rights to freedom of expression and to freedom of peaceful assembly and association, the provision of the criminal code making "atroupement" punishable. The Special Representative also invites the Government to consider whether enquiries into allegations of torture against security forces could not be entrusted to a body offering substantial guarantees of independence from the executive power, instead of the Ministry of Justice. This could contribute to enhancing the enjoyment by the citizens of Algeria of article 12 of the Declaration on Human Rights Defenders. The Special Representative observes that the allegations reported to her with regard to the case of Ms. Saker and other members of the Association des familles de disparus de Constantine confirm the urgency of such measure.

### **Argentina**

#### **Comunicaciones enviadas**

21. El 12 de agosto de 2004, la Representante Especial envió un llamamiento urgente con respecto a la muerte de **Martín Cisneros**, piquetero y dirigente de la organización Federación de Tierra y Vivienda. Según las informaciones recibidas, el 25 de junio, Martín Cisneros habría

recibido varios disparos de arma de fuego al salir de su trabajo en la Unidad de Producción Social del Comedor "Los Pibes" en el barrio de La Boca en Buenos Aires. De acuerdo con las informaciones, Martín Cisneros habría sido matado a dos cuerdas de distancia de la Comisaría de Policía por un hombre conocido como informante y quien se alega también recibe protección policial. Se indica que el 28 de junio el supuesto informante, junto con un menor de edad, habrían sido detenidos por la policía en relación con la muerte de Sr. Cisneros.

22. El 30 de agosto de 2004, la Representante Especial envió una carta de alegación, junto con el Relator Especial sobre la promoción y protección de la libertad de expresión y opinión, y el Relator Especial sobre la tortura, en relación con **Juan Eduardo Riquel**, secretario de la Asociación de Trabajadores del Estado (ATE), de la localidad de Castelli, provincia de Chaco. Habría sido detenido el 4 de julio de 2004 por personal de la comisaría de Castelli. Se alega que ese mismo día un grupo de policías ingresó en el Club Sarmiento de Castelli, donde se celebraba una fiesta popular, y empezó a golpear miembros de la comunidad Toba. Juan Eduardo Riquel habría solicitado a los policías que detuvieran la agresión. Poco después, el mismo grupo de policías habría vuelto al Club Sarmiento, y habrían increpado directamente a Juan Eduardo Riquel por haber intercedido en defensa de las personas que habían sido golpeadas. El secretario de la ATE habría sido esposado, golpeado y llevado a la comisaría, donde habría sido objeto de actos de violencia y malos tratos. En las dependencias policiales, el detenido habría manifestado espasmos respiratorios y dificultades para respirar, supuestamente debidos al trato recibido en la comisaría. Habría sido conducido al Sanatorio Norte de la localidad. Tras examinar al detenido y escuchar su relato, los médicos se habrían negado a entregarlo de nuevo a la policía. Cuando se recuperó, Juan Eduardo Riquel habría presentado una denuncia a la Fiscalía de Investigaciones. Se alega que seguidamente se habría iniciado un proceso en contra del denunciante por "atentado y resistencia a la autoridad". Se alega igualmente que Juan Eduardo Riquel habría recibido amenazas por parte de algunos policías por haber denunciado el caso.

23. El 17 de septiembre de 2004, la Representante Especial envió una carta de alegación, junto con el Relator Especial sobre la promoción y protección de la libertad de expresión y opinión sobre los periodistas **Fabián Rubino**, de Radio Mitre, **Hernán España**, de *Diario Popular*, y **Juan Arias**, del *Crónica*. Según la información recibida, el 25 de enero de 2002, estos periodistas habrían sido agredidos por agentes de la policía mientras habrían informado sobre la represión policial durante una manifestación de protesta en la Plaza de Mayo, en la ciudad de Buenos Aires. Se informa que Hernán España habría recibido nueve balas de goma en el brazo y se alega que al caer al suelo un policía le habría dado patadas mientras le habría dicho "¿por qué no sacas fotos ahora?".

### **Comunicaciones recibidas**

24. Por carta fechada el 15 de octubre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 30 de agosto de 2004 con respecto a los actos de hostigamiento y maltratos sufridos por **Juan Eduardo Riquel**. El Gobierno informó que una investigación habría sido iniciada, a través de la cual se establecería si las presuntas violaciones hubieran ocurrido. Hasta ahora, habría tomado una declaración testimonial del damnificado y se habría comprometido a disponer la custodia del mismo. El Gobierno declaró seguir atento al resultado de las investigaciones e informar oportunamente a la Representante Especial.

### **Seguimiento de comunicaciones transmitidas previamente**

25. Por carta de fecha del 19 de marzo de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 6 de noviembre de 2003 sobre la situación de la Dra. **María Dolores Gómez** y del Dr. **Fernando Maroto**. El Gobierno confirmó la necesidad de proteger la vida y la integridad física de ambas personas y de responder a la denuncia presentada. En particular, con respecto a María Dolores Gómez, la Secretaria de Derechos Humanos habría mantenido contacto permanente y habría realizado visitas con ella, así se podría ocuparse de todas las gestiones necesarias y pertinentes de la citada ciudadana. Asimismo, el Gobierno acentúa las medidas cautelares que habría otorgado a favor de los peticionarios desde junio de 2001, antes de recibir las solicitudes de la Comisión Interamericana de Derechos Humanos (CIDH) y de las Naciones Unidas. El 7 de diciembre de 2003, además de recibir la custodia de la Gendarmería en su domicilio particular, Dr. María Dolores Gómez habría recibido la custodia de la Policía Federal Argentina desde su domicilio hasta la sede de la Defensoría. El Gobierno confirmó que una denuncia de la amenaza, con referencia a la Dra. María Dolores Gómez y al Dr. Fernando Maroto, habría sido presentada ante la Fiscal del Departamento Judicial de San Isidro. La investigación jurídica continuará según su curso normal.

### **Observations**

26. The Special Representative thanks the Government for its response. She commends the Government's willingness to implement protective measures for human rights defenders at risk. She looks forward to receiving further informations regarding the findings of the ongoing investigations, in particular those relating to allegations of excessive use of force by members of the police.

## **Armenia**

### **Communications sent**

27. On 26 April 2004, 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 regarding the situation of **Mikael Danielyan**, Chairman of the Armenian Helsinki Association, an organization which monitors and reports on human rights in Armenia. According to the information received, an article appeared in two national newspapers on 30 March 2004, accusing Mikael Danielyan of anti-State activities. The articles reportedly referred to the fact that he had carried out an interview with an Azerbaijani newspaper expressing critical views of the Government that was published on 26 March. According to the information received, on the same day, Mikael Danielyan was attacked by four assailants near his home in Yerevan. The assailants allegedly knocked him to the ground and beat him for approximately 10 minutes after which they allegedly fled. It was further reported that he was taken to hospital in a critical condition but that a thorough forensic examination was not conducted. Concern has been expressed that Mikael Danielyan may have been targeted for his human rights activities, including submitting and disseminating information on human rights abuses in Armenia for inclusion in international human rights reports.

### **Communications received**

28. By letter dated 8 August 2004, the Government replied to the communication sent by the Special Representative on 26 April 2004 concerning an alleged assault on **Mikael Danielyan** by four unidentified persons. In its response, the Government informed the Special Representative that the following day, 31 March 2004, the police in Arabkir opened a criminal file on the aforementioned event and proceeded to undertake the necessary investigative steps. In that context, the victim was invited to undergo forensic and medical examination, but he refused and arrangements were made to conduct this procedure at the victim's home. The medical examination carried out on the victim reportedly showed that he had sustained several minor concussions and abrasions. As part of the investigation, the victim was also asked to supply the clothes he was wearing at the time of the alleged crime. The Government stated that he refused to do so, and later commented that he had already washed the clothes. The Government indicated that although all necessary and possible means of investigation have been explored, to date, they have failed to yield any positive results. The investigation is continuing.

### **Observations**

29. The Special Representative would like to thank the Government for responding to her communication. She looks forward to receiving further information on the findings of the ongoing investigations.

## **Azerbaijan**

### **Communications sent**

30. On 22 December 2003, 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 action about information received regarding **Ilgar Ibragimoglu Allahverdiev**, leader and coordinator of the Center for the Protection of Conscience and Religious Freedoms (DEVAMM) and secretary-general of the International Religious Liberty Association (IRLA Azerbaijan), who was reportedly arrested on 3 December 2003 and detained for a three-month period on the orders of the Nasimi district court of Baku. According to information received, the court hearing was extremely short and his lawyers were not heard. It is reported that Mr. Ibragimoglu **Allahverdiev** was accused of disturbing public order and resisting representatives of the authorities in the aftermath of the presidential elections on 16 October 2003 (see communication dated 22 October 2003 sent by the Special Rapporteur the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention). It is alleged that this action might be directly linked to the participation of DEVAMM in the work of "Bizim Azerbaijan", a democratic coalition of around 30 political parties and NGOs supporting the candidacy of Isa Qambar, the chairman of the opposition party Musavat. It is also reported that there have been acts of harassment against the members of the committee created for protection of Mr. Ibragimoglu **Allahverdiev's** rights, composed notably of members of DEVAMM and IRLA, which was created after his arrest. According to reports, in the evening of 4 December, approximately at the same time in different parts of Baku, the home of DEVAMM's press-secretary, Mr. Seymur Rashidov, as well as the home of DEVAMM's driver, Mr. Shahin Gasanov, were visited by the staff of the local police

departments, who without showing any official written document, reportedly asked them to come to the police department. As Mr. Rashidov was not at home at that time, the policemen allegedly called him on his mobile phone and told him to be the next morning at 9 a.m. at the 27th police department of Yasamal district. Mr. Rashidov was summoned to the prosecutor's office on 11 December, where he was interrogated and released.

31. On 30 January 2004, 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 in connection with the situation of the Muslim religious community of *the Juma Mosque*, which is reportedly threatened with eviction. According to the information received, on 16 January 2004, the Juma Mosque community was allegedly informed by a letter from the Administration of the Historical Architectural Reserve Icherisheher of Baku that, based on information received from the General Prosecutor's Office, they would be required to hand over the Mosque to the "appropriate authorities" within 15 days. The letter reportedly mentioned the arrest of their imam Ilgar Ibragimoglu Allahverdiev for his alleged participation in post-election demonstrations as the ground for this decision. According to the information received, two additional letters were attached to this letter. The first, reportedly from the Prosecutor's office and addressed to the executive branch of the Baku City Administration, allegedly contained details of Ilgar Ibragimoglu's supposed guilt. The second, reportedly from the Executive Branch of Baku City, stated its intention to re-transform the Juma Mosque premises into a carpet museum as it used to be during Soviet times. Concern has been expressed that the future eviction of the religious community may be a form of reprisal against the work of Ilgar Ibragimoglu in defending human rights.

32. On 1 April 2004, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a follow-up urgent appeal regarding **Ilgar Ibragimoglu Allahverdiev**. According to new information received, following the court proceedings, which took place from 22 to 31 March 2004, the prosecution reportedly requested a prison sentence of four years and six months against Ilgar Ibragimoglu. The final verdict was reportedly due on 2 April 2004. Concern has been expressed that the court proceedings and heavy sentence requested against Ilgar Ibragimoglu may represent a form of reprisal against his human rights activities, in particular in the field of freedom of religion.

33. On 28 September 2004, the Special Representative sent a follow-up letter of allegation concerning **Ilgar Ibrahimoglu Allahverdiev**. According to the information received, on 12 September 2004, Ilgar Ibrahimoglu Allahverdiev was reportedly forbidden to leave the country by authorities at the Baku airport, as he was leaving to participate in a conference on tolerance and non-discrimination organized in Brussels on 13 and 14 September 2004 by the Organization for Security and Cooperation in Europe (OSCE) and the Belgian Foreign Ministry. Concern has been expressed that the reported denial of permission of Ilgar Ibrahimoglu Allahverdiev to leave the country may be an attempt to prevent him from pursuing his human rights activities.

#### **Communications received**

34. By letters dated 1 April, 27 May and 9 August 2004, the Government replied to the communications sent by the Special Representative on 30 January and 1 April 2004 concerning

the disputed occupation of a building by members of the *Juma Mosque* religious community. Referring to the recent verdicts, the Government informed the Special Representative that on 1 March 2004, after a fair and proper hearing, the court ruled against the Juma Mosque religious community. This decision was upheld by the Court of Appeal and entered into force on 22 April 2004. The Government stressed that during the course of the trial, the defendants had failed to present adequate documentation to support the claim that they had been legally granted use of the disputed building. The Government also emphasized that this particular religious community had repeatedly demonstrated reluctance to register with the State Committee on Religious Organizations and had persistently refused to comply with two paragraphs of the Religion Act; to obtain the prerequisite recommendation from the Caucasian Muslim Board and to provide a legal address. According to the regulation, seemingly only registered bodies could be permitted the use of the building in question. In connection with the criminal case against Ilgar Ibragimoglu Allahverdiev in which he has been charged with mass disturbance and resistance or violence towards a police officer, the Government confirmed that the defendant had been handed down a five-year suspended sentence and had been placed on probation for a further five years by the Serious Crimes Court. The decision of the Court of Appeal is currently pending.

35. By letter dated 24 December 2004, the Government replied to the letter of allegation sent on 28 September 2004 concerning **Ilgar Ibrahimoglu Allahverdiev**. Unfortunately, the English translation was not available in time to be examined and included in this report, and will thus be reported next year.

### **Observations**

36. The Special Representative thanks the Government for its replies to her communications. She regrets that for the reasons mentioned above, she is not in a position to make observations on the case of Mr. Allahverdiev.

37. Regarding the related case of the Juma Mosque religious community, the Special Representative acknowledges that the Government's position in this case was upheld in court proceedings. She remains concerned, however, that the legislation regulating non-governmental organizations in Azerbaijan, including religious associations, might be open to misuse by authorities acting in reprisal against human rights defenders.

## **Bahrain**

### **Communications sent**

38. On 7 April 2004, 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 action regarding **Abdulrauf Al-Shayeb**, the official spokesperson of the National Committee for Martyrs and Victims of Torture, an organization that works on the rehabilitation of torture victims and at bringing the perpetrators to justice. It is reported that on 30 March 2004, Abdulrauf Al-Shayeb was arrested and held until 3 April, when he was released reportedly on the orders of the Office of the Crown Prince. Abdulrauf Al-Shayeb was allegedly charged with "immoral indecency" in connection with allegations of having extra-marital relations with a domestic worker, who was allegedly forced to accuse him of having had relations with her. It is

reported that this person is being kept in detention. However, it is believed that Abdulrauf Al-Shayeb was targeted for his human rights work. It is reported that he was in Geneva from 15 to 28 March 2004 to attend events related to the sixtieth session of the Commission for Human Rights. Concern has been expressed that his arrest might have been timed in order to prevent him from organizing a demonstration on behalf of survivors of torture, which he had called to coincide with the inaugural Bahrain Grand Prix on 4 April. Moreover, it is alleged that during his detention, a former high-level military officer (whose name is known to the Special Rapporteurs), who had allegedly been accused by the National Committee for Martyrs and Victims of Torture of being involved in the torture of detainees, threatened to "cut his tongue, which is too long". Abdulrauf Al-Shayeb is reportedly expected to present himself to the Public Prosecutor on 7 April.

39. On 1 October 2004, 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 torture, transmitted an urgent appeal regarding the **Bahrain Centre for Human Rights (BCHR)** and its executive director, **Abdul-Hadi Al-Khawaja**. It is reported that on 26 September 2004, two days after his participation in a symposium called "Poverty and Economic Rights in Bahrain" organized by BCHR in the Al-Orooba Club, Abdul-Hadi Al-Khawaja was arrested at approximately 10.30 p.m. at the Nabee Saleh police station to where he had been summoned. According to the information received he was later brought to the Howdh Aljaf Detention Centre where the Public Prosecutor remanded him in custody for a period of 45 days. It is reported that he started a hunger strike, which he later stopped; however, reports indicate that he is still continuing with his speech strike. Abdul-Hadi Al-Khawaja was allegedly charged under articles 165 and 168 of the Bahraini penal code with "encouraging hatred of the State" and "distributing falsehoods and rumours", for which he could face up to five years imprisonment. Abdul-Hadi Al-Khawaja is allegedly being held in incommunicado detention and has been denied visits from his family and lawyer. Further reports indicate that the Al-Orooba Club was officially closed down by the Government for having hosted this event. On 28 September 2004, the BCHR was reportedly closed by the authority of the Ministry of Labour and Social Affairs. Furthermore, according to the information received, the newspapers were informed of the closure of BCHR before its directors and members. It is also reported that on 29 September 2004, the Minister of Labour and Social Affairs issued a press release, in which he declared that he had issued an order to dissolve the BCHR the night before, the order coming into force that same day. It is alleged that the official motive was that the BCHR violated Law No. 21 on Societies of 1989. Concern has been expressed that Abdul-Hadi Al-Khawaja may have been detained as a direct result of his human rights work with BCHR, and in particular, his criticism of government policy in regard to poverty in Bahrain during the symposium. Further concern has been expressed about all members of the BCHR, due to reports about the creation by the Ministry of Labour of a multi-institutional committee aimed at "taking legal and punitive actions against the BCHR". It is feared that such a committee may lead to the closure of the organization. In view of his alleged incommunicado detention, concern is expressed that he may be at risk of torture or other forms of ill-treatment.

40. On 6 October 2004, 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 in connection with information received regarding **Nabeel Rajab**, the president of BCHR, and other members of that organization. According to the information received, on 30 September

2004, the Minister of Labour and Social Affairs was quoted in the newspaper *Al-Wasat* as stating that punitive actions would be taken against the members of BCHR, in particular Nabeel Rajab, if they kept trying to breach the Ministry's order to close the organization, and commented that Nabeel Rajab was "sending messages abroad to create a chaotic atmosphere", with reference to correspondence BCHR had with media and non-governmental organizations abroad on behalf of the re-establishment of the organization and the release of its executive director, Abdul-Hadi Al-Khawaja. Concern has been expressed that Nabeel Rajab and other members of the BCHR may have been threatened with punitive actions as a direct result of their human rights work, in particular their attempts to re-establish BCHR and secure the release of its executive director, Abdul-Hadi Al-Khawaja.

41. On 1 November 2004, the Special Representative sent an urgent appeal regarding Mr. **Abdulrauf Al-Shayeb** and Mr. **Mahmood Ramadan**, respectively spokesperson and board member of the National Committee for Martyrs and Victims of Torture in Bahrain. On 28 October 2004, around 8 p.m., the two men, together with other protesters, were taking part in a 'car parade' on a highway, organized by the Committee to publicly call for the liberation of Mr. Abdul-Hadi Al-Khawaja. According to the information received, although the protest was proceeding peacefully, Mr. Abdulrauf Al-Shayeb and ten other protesters were surrounded by 30 anti-riot police for about three hours before being arrested. 200 riot police were allegedly present at the site, though not directly involved in blocking Mr. Abdulrauf Al-Shayeb and the ten other protesters. Attempts by other persons to negotiate their release with the police failed. Allegedly, around 800 persons gathered at the location and started to chant slogans demanding the release of Mr. Abdul-Hadi Al-Khawaja, waving his picture and Bahraini flags. According to the information received, at around 11:30 p.m. the police started firing teargas against the crowd and arrested the 11 encircled protesters and another estimated 30 of the protesters in the crowd. Several individuals were wounded. Concern is expressed that the arrest and detention of Mr. Abdulrauf Al-Shayeb and Mr. Mahmood Ramadan may be an attempt to prevent their further activity as human rights defenders in Bahrain, in particular their efforts to obtain the release from custody of Mr. Abdul-Hadi Al-Khawaja, and on behalf of the persons assisted by the National Committee for Martyrs and Victims of Torture.

### **Communications received**

42. By letter dated 16 April 2004, the Government responded to the urgent appeal sent by the Special Representative on 7 April 2004. The Government confirmed that, on 30 March 2004, the police arrested **Abdulrauf Al-Shayeb** who was charged with trespassing under article 361 of the Criminal Code, based on his visits to a maid in the absence of the house owner. The Government indicated that the Department of Public Prosecution decided to remand Mr. Al-Shayeb in custody for a period of seven days under article 147 of the Code of Criminal Procedure. It further stated that, on 3 April 2004, he was released on bail, and not by order of the Crown Prince. The maid was released pursuant to article 149 of the Code of Criminal Procedure. The Government stated that Mr. Al-Shayeb had not been subject to inhuman treatment in custody, and that the investigators found no evidence to support the claim that a senior police officer threatened to cut out his tongue. As for the claim that Mr. Al-Shayeb was deliberately arrested to prevent him from organizing a demonstration in support of torture survivors, the Government stated that the case and investigation files show that none of the procedures undertaken prior to his arrest were directed against him personally or against any identifiable person in particular. Mr. Al-Shayeb

was not arrested in order to prevent him from taking part in any meeting or peaceful demonstration.

43. By letter dated 6 October 2004, the Government replied to the communication sent by the Special Representative on 1 October 2004 in connection with the recent arrest of **Abdul-Hadi Al-Khawaja**. The Government refuted several of the allegations contained in the initial correspondence, notably: the accusation of arbitrary arrest, incommunicado detention, and improper, cruel, inhuman or degrading treatment or punishment. According to the Government, during his time in custody, the accused had been afforded all his rights of visit, representation and welfare. The accused was arrested for suspected violations of articles 165 and 168 of Bahrain's Penal Code. No charges were filed against him. Regarding the closure of the Bahrain Centre for Human Rights, the Government stated that the BCHR had long been operating in violation of Law No. 21 of 1989 on Societies, and despite several warnings, had continued its illegal activities. Under similar circumstances, the Al-Oruba Club had its activities suspended for 45 days. The Government reiterated its commitment to human rights protection and advancement and welcomed the development of an open, active and vibrant civil society.

44. By letter dated 13 October 2004, the Government replied to the communication sent by the Special Representative on 6 October 2004 regarding **Nabeel Rajab**. The Government denied the accusations that the Minister of Labour and Social Affairs had threatened to take "punitive action" against the members of the BCHR during an interview. According to the Government, the Minister's decision to dissolve the BCHR was taken in accordance with the Societies Law, and only in response to the repeated failure of the organization to take appropriate disciplinary action against their members operating in violation of said law. As such, the decision should be respected unless subsequently reversed by the courts, and any violation of the aforementioned decision would incur further punitive action. The Government assured that the legal redress initiated by the BCHR would be afforded a fair and proper audience.

45. By letter dated 1 December 2004, and in response to a further communications transmitted on 1 November 2004, the Kingdom of Bahrain sent additional information to the Special Representative concerning the arrest and detention of **Abdulrauf Al-Shayeb** and **Mahmood Ramadan**. According to the Government, the two detainees were arrested and detained for actions completely unrelated with the expression of their views or opinions. However, the Government declared that Mahmood Ramadan was promptly released due to lack of evidence, although the case against Abdulrauf Al-Shayeb remained under investigation. On 21 November 2004, the King issued a directive ordering the release of all persons arrested and charged with illegal assembly and resisting police, including the aforementioned.

46. By letter dated 1 December 2004, the Government sent further information to the Special Representative concerning the case against **Abdul Hadi Al-Khawaja** and the *Al-Oruba Club*. In the communication, the Government stated that the Criminal Court had sentenced in absentia, Abdul Hadi Al-Khawaja, to one year in prison. The same day, a decree issued by the King of Bahrain pardoned the aforesaid from serving the sentence, in light of the time spent in custody prior to the court ruling. With regard to the Al-Oruba Club, the suspension of its activities was reversed by the Supreme Council for Youth and Sports.

## Observations

47. The Special Representative thanks the Government for its prompt and detailed replies to the communications sent. She welcomes the Government's reiteration of its commitment to human rights and to the development of an open, active and vibrant civil society. The Special Representative notes the pivotal role played by genuine freedom of speech, including for persons criticizing the authorities in relation to human rights issues, in the achievement of the goals the Government has set itself.

48. The Special Representative welcomes the release of Mr. Al-Shayeb, Mr. Al-Khawaja and Mr. Ramadan. While she acknowledges the Government's assurance that Mr. Al-Shayeb and Mr. Ramadan were arrested on grounds unrelated to their human rights work, she remains concerned at what appears to be a pattern of arrests of human rights defenders. In relation to the case of Mr. Al-Khawaja, the Special Representative notes that the use of criminal charges such as "encouraging hatred of the State" and "distributing falsehoods and rumours" frequently implies the risk of suppressing legitimate free speech, and is particularly worrying when such charges are raised against a person for having denounced alleged human rights violations.

49. With regard to the two non-governmental organizations mentioned in her communications to the Government, the Special Representative particularly welcomes the decision of the Supreme Council for Youth and Sports to reverse the decision to close the Al-Oruba Club. The Special Representative notes the importance for an open society of legislation protecting freedom of association. She invites the Government to review the Law on Societies and other relevant regulations to ensure that Bahrain's legislation adequately protects the right of persons to freely organize to defend human rights.

## Bangladesh

### Communications sent

50. On 19 January 2004, the Special Representative sent an urgent appeal concerning allegations of legal action being brought against **Khademul Islam Bidduth**, leader of the Equality Trade Union Migrants Branch (ETU-MB) and **Jamal Ali**, an active member of the migrant movement. According information received, Khademul Islam Bidduth and Jamal Ali were arrested by police in the Republic of Korea on 26 October 2003 while taking part in a demonstration against an alleged crackdown on migrant workers by the Government, which reportedly began on 24 October. Both human rights defenders were subsequently deported from the Republic of Korea to Bangladesh, where they were reportedly held in detention until 4 January 2004 when they were released on bail and targeted with legal action, apparently for their association with trade unions and civil society groups in the Republic of Korea.

51. On 3 May 2004, 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 concerning the situation of the **Human Rights Congress for Bangladesh Minorities (HRCBM)**, a human rights and humanitarian services organization which has publicly denounced human rights violations against minorities in Bangladesh and has filed a writ petition before the Bangladesh Supreme Court concerning the protection of religious and ethnic

minorities. According to the information received, on 17 April 2004 a group of men, reportedly members of the ruling Bangladesh Nationalist Party (BNP) under the leadership of a local member of Parliament whose name is known to the Special Representative, forcibly entered the offices of HRCBM in Dhaka. It is reported that they ransacked and looted the offices taking furniture, computers, videos and cameras as well as HRCBM documents. They also reportedly assaulted the office assistant, Kazi Shohag Hossain, who was allegedly later taken to hospital for treatment. According to the information received, the perpetrators of the attack threatened members of HRCBM staff, including its vice-president Advocate Dulal Choudhury, of serious consequences if the incident was reported. Also, the Lalbag police station allegedly initially refused to register the complaint. A case was reportedly registered on 22 April 2004. Concern has been expressed that the alleged attack on the offices of HRCBM may be an attempt at hindering their human rights work on behalf of minorities in Bangladesh, in particular on recent reporting of human rights abuses against minorities in the country, including State discrimination.

52. On 5 May 2004, 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 concerning the alleged attack on Mrs. **Sumi Khan**, a journalist and Chittagong correspondent of the magazine *Weekly 2000*, who was reportedly stabbed and critically wounded in the Nandan Karon area in Chittagong on 27 April 2004. According to information received, the attack took place at about 10.30 p.m., as Sumi Khan was on her way to a courier delivery service to send a report to her editor. Three men in an auto-rickshaw allegedly attempted to drag her into their vehicle, but she resisted. They then reportedly stabbed her several times. As people in the vicinity came to her aid, they reportedly grabbed her handbag and drove away. The assailants allegedly threatened that she would be killed if she did not stop writing. It was reported that three policemen stood by while the attack was taking place. She has reportedly filed a complaint with the police but so far no one has been arrested. Sumi Khan has reportedly written a number of investigative articles about human rights violations suffered by the Hindus and the alleged involvement of local politicians and religious groups in attacks on members of this community, kidnapping and land grabbing by some landlords. In recent weeks, she had allegedly received several anonymous threatening telephone calls, warning her not to "defame" people in her reports. It is believed that Sumi Khan is being targeted for her work as a journalist, in particular for her articles raising human rights concerns. Sumi Khan allegedly continues to receive threatening phone calls as she recuperates at her home.

53. On 12 May 2004, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning **Aurobindo Pal**, a freelance photojournalist and deputy chairman of the Nandail city's press club, who has reportedly been charged with "murder" after refusing to hand over photographs to police. According to information received, on 10 May 2004, Mr. Pal was arrested by police in Mymensingh district, northern Bangladesh, after refusing to hand over the negatives of pictures he took during a riot at a polling station in the city of Nandail where local elections were being held on 9 May 2004. It is reported that on the orders of a police officer whose name is known to the Special Rapporteur and the Special Representative, and who was allegedly involved in human rights abuses in the past, police reportedly fired into the crowd, killing two demonstrators and injuring at least 17 others. Mr. Pal took photographs of the incident, and on the same night,

police allegedly turned up at his home to seize his negatives. It is reported that despite threats of reprisals from the police, Mr. Pal refused, after which the police reportedly searched his home and one officer said he had been ordered to arrest him if he failed to comply. It is reported that Mr. Pal, who was allegedly charged with "murder" under article 302 of the Criminal Code in order to prevent him from being released on bail and exert further pressure on him, is scheduled to appear before a Nandail court on 12 May 2004.

54. On 28 July 2004, 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 concerning Mr. **Salam Azad**, a writer who has written numerous publications raising concerns with regard to the human rights of religious minorities in Bangladesh. According to our information, Salam Azad has recently published a novel, "Bhanga Math", on the theme of discrimination and human rights violations against religious minorities in Bangladesh. On 18 July 2004, the Government banned the distribution and sale of this book, alleging that it would incite violence between Moslems and Hindus. Salam Azad at the time was outside Bangladesh, attending a United Nations human rights meeting. In the days following the alleged ban, Salam Azad was reportedly warned that he might be at risk of arrest by authorities upon his return to Bangladesh or of murder by political extremists. Salam Azad's wife has reportedly received threatening phone calls.

55. On 26 August 2004, 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 concerning the killing of Dr. **Kamal Hossain**, a journalist working for the daily *Ajker Kago*, secretary-general of the Manikchhari Press Club and a human rights advocate and founder of Ain-O-Shalishi Kendra (Center for Law and Justice, a human rights organization in Bangladesh). According to the information received, on 22 August 2004, Dr. Kamal Hossain was allegedly abducted and murdered by unknown individuals. According to his wife, the journalist hid when the attackers broke in, but surrendered to them after they threatened to kill his two-year-old son. Police found the journalist's body a few hours later, two kilometers from his home. He had allegedly been investigating cases linked to organized crime and a few days before his murder, he had helped police to identify some gang members. Reportedly, he had also received death threats. Concern has been expressed that Dr. Kamal Hossain may have been targeted in relation to his human rights activities, in particular his work on cases linked to organized crime and identification of some gang members. Concern is heightened by the fact that recently, the editors and journalists at the largest Bangla daily, *Prothom Alo*, have also reportedly been threatened with attacks by an Islamist group for publishing investigative reports about the activities of a number of madrasas (religious schools) in rural areas. Additionally, family members of the human rights defender Dr. **Humayun Azad**, who died suddenly on 12 August 2004 whilst on a visit in Germany, have been threatened with death if they went to the airport to receive his body on 27 August.

56. On 1 September 2004, the 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 **Rafique al-Islam**, responsible for the activities of the International Campaign to Ban Landmines (ICBL) and the representative of Non Violence International in Bangladesh. According to the information received, on 21 August 2004 at approximately 2.30 p.m., Rafique al-Islam was allegedly arrested at his home in Cox's Bazar

by military officers of the Rapid Action Battalion (RAB) and later taken to Cox's Bazar prison. It is reported that during the arrest, RAB members also seized documents and equipment from his office. A hearing of the charges against him was reportedly scheduled for the 26 August but was subsequently postponed to 29 August; neither his family nor his lawyer were informed of the charges brought against him. On 29 August 2004, Rafique al-Islam was reportedly remanded into the custody of the RAB for interrogation and was to be transferred to an unknown location. Concern has been expressed about the physical and psychological integrity of Rafique al-Islam given that other individuals recently detained by RAB military officers have reportedly been subjected to torture and other forms of ill treatment while in custody. It is also feared that the arrest of Rafique al-Islam may be a result of his work as a human rights defender, in particular through his campaign to ban landmines.

### **Communications received**

57. By letter dated 7 May 2004, the Government replied to the urgent appeal sent on 5 May 2004 concerning Mrs. **Sumi Khan**. The Government informed that the communication had been forwarded to the authorities concerned, for immediate attention and necessary action.

58. By letter dated 10 May 2004, the Government replied to the letter of allegation sent on 3 May 2004 concerning the situation of the **Human Rights Congress for Bangladesh Minorities (HRCBM)**. The Government informed that the communication had been forwarded to the authorities concerned for immediate attention and necessary action.

59. On 3 August 2004, the Government sent a response to the urgent action sent on 28 July 2004 concerning Mr. **Salam Azad**. The Government expressed its surprise at these allegations, explaining that Mr. Azad who was present at the Permanent Mission of Bangladesh in Geneva on 19 July 2004 never mentioned neither at that time, nor later during the session of the Working Group on Indigenous Peoples, that he feared arrest by the authorities or that his family felt threatened. Concerning the reported ban on his book, the Government states that Mr. Azad should have sought appropriate legal action if he felt that the Government acted beyond the law.

60. By letter dated 17 August 2004, the Government replied to the urgent appeal sent on 19 January 2004. The Government informed that **Khademul Islam Bidduth** and **Jamal Ali**, who were both active members of a trade union for migrant workers in the Republic of Korea, had protested against a decision by the Government of the Republic of Korea to deport all illegal immigrants who had stayed more than 5 years. They were deported by the Government of the Republic of Korea on 1 January 2004. The reply indicated that, upon their arrival in Bangladesh, they were taken into custody on cognizable offences under section U/S 54 of the CrPC. According to the Government of Bangladesh, they were subsequently granted bail by the court, as the Government of the Republic of Korea lodged no formal or official complaint against them.

61. By letter dated 31 August 2004, the Government replied to the urgent appeal sent on 26 August 2004 concerning Dr. **Kamal Hossain**. The Government informed that the communication had been forwarded to the concerned authorities in Bangladesh for immediate attention and necessary action.

62. By letter dated 20 October 2004, the Government replied to the urgent appeal sent on 12 May 2004. The Government informed that Mr. **Aurobindo Pal** had been arrested by the police in connection with a case lodged with Nandail Police Station, case no. 6 of 9 May 2004, under section 147/148/332/353/307/302 of the Penal Code. The reply indicated that allegations of *inter alia* arbitrary arrest and threats of reprisals were found to be unsubstantiated, as the investigating officer went with a warrant to arrest Mr. Pal. The case was at the time under investigation under the direct supervision of senior officials. The Government stated, as far as the demonstration on 9 May 2004 was concerned, that activists and supporters of two candidates who were contesting for the local municipal elections had assembled unlawfully and entered into altercations, leading to an explosive and unruly situation. It informed that there was an exchange of fire between both groups. The Government indicated that one activist received bullet injuries and died after he had been taken to the hospital. Another activist, who had not been injured, died later following cardiac arrest. The Government concluded that in view of these explanations, the allegations that two persons died under police fire were unfounded. It informed that the police had fired two rounds of blank shots to disperse the rioting people and to bring the situation under control.

#### **Responses received to communications sent by the Special Representative in previous years**

63. By letter dated 21 May 2004, the Government replied to the urgent appeal sent jointly 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 on 4 December 2003 concerning **Salah Uddin Shoaib Choudhury**. The Government informed that Mr. Choudhury was arrested on sedition charges under case no. 8 of 9 December 2003 under section 11 (3) of the Passport Act 1973 filed with Dhaka Airport Police Station. A separate case (no. 20) had also been filed against him with the same Police Station on 24 January 2004 under section 108(a)/120(b) 124(a)/505(a) of the Penal Code. Both cases were under investigation at the time. The Government further stated that Mr. Choudhury had made a written statement denying that he had been tortured by the police while in custody, and informing that neither he nor members of his family had filed any complaints of torture or ill-treatment against the authorities.

#### **Observations**

64. The Special Representative thanks the Government for its replies. She welcomes the release on bail of Khademul Islam Bidduth and Jamal Ali. She remains gravely concerned about the reported attacks and threats of individuals and organizations working to protect human rights, including minority rights. She is equally concerned that several journalists have been victims of such attacks and threats, and that one of them was reportedly killed. The Special Representative urges the Government to take all necessary measures to ensure that the perpetrators are brought to justice.

### **Belarus**

#### **Communications sent**

65. On 9 February 2004, 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 concerning the situation of **Natalya Kaliada**, a journalist and human rights defender who has reportedly been fined US\$ 200 for publishing articles on a web site operated by Charter 97, an organization which works to promote democracy and human rights in Belarus. According to the information received, the fine followed an investigation into the legality of the news produced by the organization, carried out by the Deputy Attorney-General, which reportedly concluded that the activities of Charter 97, including its reporting of human rights violations, were illegal. Concern has been expressed that the fine imposed on Natalya Kaliada may be a reprisal for her reporting on human rights related issues and a means to deter her from further carrying out her human rights work.

66. On 26 May 2004, 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 regarding the situation of the **Belarusian Helsinki Committee (BHC)**, the Belarus branch of the International Helsinki Federation, whose case was the subject of an urgent appeal by the Special Representative on 1 October 2003. According to the information received, on 19 August 2003, the BHC reportedly received an official warning from the Ministry of Justice for omitting the quotation marks from the organization's name on its official letterheads and organizational symbol. In this context and according to the information received, on 17 March 2004, following an investigation by the Department of Finance, criminal charges were brought against representatives of the BHC under Presidential Decree No. 8 art. 12 on "Receipt and Use of Foreign Financial Assistance" and namely for "omission to register foreign financial assistance". The Department of Finance has reportedly stated that the Committee owes the State 385 million Belarus roubles in unpaid taxes and fines for alleged unlawful use of project funds received under the European Union TACIS Programme. It is reported that according to the general rules of the Memorandum on Financing between Belarus and the European Union, it was agreed on 10 May 1994 that the TACIS programme would be exempt from taxation. According to the information received, the representatives of the BHC face criminal charges under article 243 of the Criminal Code that could result in their arrest as well as the closure of the Committee's bank account and the confiscation of its property. At the time of the appeal, the Economic Court of the City of Minsk was scheduled to consider the lawsuit on 1 June 2004. Concern is expressed that the primary motivation behind these proceedings may be to prevent BHC from carrying out its human rights activities. This concern is heightened in the light of information received regarding the alleged closure of 51 NGOs, many of them human rights organizations, in the course of 2003, a number of which have also been the subject of urgent appeals by the Special Representative.

67. On 18 June 2004, the Special Representative sent the following letter of general concerns in connection with information received on the **closure of 51 NGOs** and of **written warnings to a further 810 NGOs**, a significant number of which working in the defence of human rights: "I am grateful for the replies transmitted to five communications I sent to your Government in 2003 regarding the closure of eight human rights NGOs. However, in the light of continued allegations of NGOs facing legal proceedings and closure, I remain gravely concerned at the situation of human rights defenders in Belarus. I am especially concerned at information I have received regarding the adoption since 1999 of a number of legislative measures regarding the registration, functioning and funding of NGOs, including human rights organizations, which appear to be contrary to article 5 (b) of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and

Fundamental Freedoms, which provides for the rights of individuals to form, join and participate in non-governmental organizations for the purpose of promoting and protecting human rights. In particular, I am concerned with the restrictive registration procedures stipulated in Presidential Decree No. 2 of 26 January 1999, which modifies the prior system in which registration was reportedly a simple formality. According to my information, the Decree provides that all NGOs are now required to officially register or re-register with the Belarusian authorities. It also sets up a "State Commission on the registration of associations" with widespread powers to review registration requests. Presidential Decree No 11 of September 2003 reportedly extends the scope of this legislation to apply to unions of associations. Provisions within the Law on Association which regulates the closure of NGOs offer further ground for concern. In particular, I am alarmed by the provision that allows for an organization to be closed down on receipt of two written warnings in a given year from the Ministry of Justice. My information indicates that the system of official warning has been used in connection with the amended registration system to effectively end the work of human rights defenders in Belarus. In the course of 2003, the vast majority of human rights NGOs in Belarus have been closed down. I have personally received allegations of over 11 human rights organizations facing legal proceedings and closure for minor administrative irregularities such as having a different street address or using a different organizational symbol than that registered or undertaking activities deemed outside the scope of their charter. I consider that such minor irregularities do not provide sufficient grounds for the closure of an organization. Indeed, registration procedures and grounds for closure cannot be so restrictive that they result in the inability of defenders to carry out their activities. I am further alarmed by the June 2003 amendment of the Law on Association (no.213-3) which allows for the closure of an organization in the event of a violation of the legislation on demonstration and may result in the undue restriction of the right of defenders to peaceful assembly. I am equally concerned at information I have received regarding restrictions on the rights of NGOs to provide legal assistance and representation to citizens in civil trials. Presidential Decree No. 13 of 15 April 2003 reportedly amends article 72 of the civil code which allowed associations to represent a defendant in court if its bylaw so provided. The Decree restricts this right by stipulating that "NGOs may only represent defendants at civil trials in general courts if authorized by law to represent members of such associations and other persons before the courts and defend their rights and interests." Such provisions appear to be contrary to article 9 (a) and (b) of the Declaration on Human Rights Defenders that provide for the right to provide legal representation. Further, I understand that article 62 of the Constitution of Belarus does not place limitations on the right of citizens to choose their representatives in courts. Lastly, I am concerned by reported restrictions on the rights of NGOs to receive and utilize resources. Presidential Decree No.24 of 28 November 2003 reportedly provides measures to control foreign aid including preventing NGOs from using this aid to organize "meetings, demonstrations or picket lines", as well as to "draft and circulate propaganda documents or to engage in other types of political activities". The ability of human rights defenders to carry out their activities rests on their ability to receive funds and utilize them without undue restriction. The restriction imposed by Decree 24 represents a real threat to the existence of NGOs and is contrary to article 13 of the Declaration which provides for the right to received resources for the express purpose of promoting and protecting human rights. While I recognize the need to regulate the functioning of NGOs, I am gravely concerned that the above mentioned legislation is being used to obstruct the legitimate activities of organizations working in the defense of human rights in Belarus and silence human rights defenders. I call on the Belarus Government to ensure that the its legislation is in conformity with recognized international norms and standards in particular the Declaration

on Human Rights Defenders and urge the government to ensure that the rights enshrined in the declaration on human rights defenders are respected in particular their right to freedom of association. I am available to provide any support in this regard and would be glad to open a meaningful dialogue with the government on the implementation of the Declaration. I would also like to take this opportunity to reiterate my request for an invitation to conduct an official visit sent to you on 1 July 2002 which has not received a response to this date.”

68. On 28 September 2004, the Special Representative sent an urgent appeal in connection with new information received regarding the **Belarusian Helsinki Committee (BHC)**, in particular its Chairperson, **Tatiana Protsko**, and its head accountant, **Tatiana Rutkevich**. The BHC has been the subject of urgent appeals by the Special Representative on 26 May 2004 and 1 October 2003. According to new information received, the BHC was cleared of all charges of tax evasion by the Minsk Economic Court in June 2004, and the decision was upheld by the Appellate Court at the end of July 2004. The court’s decision confirmed the legality of the activities of the organization and that the BHC complied with all procedures as required by the authorities. It is reported however that the criminal investigation against its chairperson, Tatiana Protsko, and its head accountant, Tatiana Rutkevich, continues and that they could face a sentence of up to seven years’ imprisonment if convicted. According to the information received, as part of the criminal investigation, an additional audit of the BHC will take place, which will be coordinated by the Ministry for Taxes and Collections, involving the Ministry of Economy, Ministry of Foreign Affairs and Ministry of Justice. Concern has been expressed that the primary motivation behind this investigation may be to prevent BHC from carrying out its human rights activities. This concern is heightened in the light of information received regarding the alleged closure of a number of human rights NGOs in the course of 2003 and 2004, a number of which have also been the subject of urgent appeals by the Special Representative.

69. On 30 September 2004, 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 regarding information received on **Professor Yuri Bandazhevsky**, former rector of the Gomel Medical Institute, whose works raised awareness about the health effects of the radioactive fall-out of the Chernobyl nuclear reactor disaster of 1986 for the inhabitants of the Gomel’s region, who openly criticized the State authorities and, in his capacity as a member of a special research committee, reported about the research being conducted into the Chernobyl disaster of 1986 by the Institute of Radiation Medicine (part of the Belarusian Ministry of Health), criticizing the manner in which the research had been carried out and the fact that money had been spent on research without producing any important scientific findings. According to the information received, on 13 July 1999, Yuri Bandazhevsky was arrested by a group of police officers in Gomel but was not formally charged until 5 August 1999. He was not reportedly given access to a lawyer and he had limited opportunities to meet his wife, Galina Bandazhevskaya. When, three weeks after his arrest, the lawyer had the permission to visit his client, Professor Bandazhevsky was transferred to a prison 160 km away in Mogilov without the lawyer’s knowledge and was allegedly put in an isolation cell and then transferred again to a maximum security prison in Minsk. On 18 June 2001, after a four-month long trial in the Military Board of the Supreme Court, Professor Bandazhevsky was convicted of accepting US\$ 26, 000 in bribes from students seeking admission to the Gomel Medical Institute and sentenced to eight years’ imprisonment and confiscation of his property and was banned from exercising any managerial and political functions for five years after his release. It is alleged that the

prosecution did not produce any material evidence supporting this claim and that Professor Bandazhevsky's co-defendant, Vladimir Ravkov, vice-rector of Gomel Medical Institute, was forced by the police to testify of Professor Bandazhevsky's involvement in taking bribes. It is reported that for 14 to 16 hours a day, he was denied food and sleep, threatened that his wife and daughter would be harmed, and given psychotropic substances. He allegedly retracted his statement shortly afterwards. It is reported that Professor Bandazhevsky is currently confined to the "free settlement" of Peskavtsy (Grodno region), a form of internal exile. Concern has been expressed that Professor Bandazhevsky's detention may have been decided in order to prevent him from continuing his scientific works and from denouncing the effects of radioactive disaster of Chernobyl on the inhabitants of Gomel region.

### **Communications received**

70. By letter dated 16 June 2004, the Government replied to the communication sent by the Special Representative on 9 February 2004 in reference to the legal action taken against **Natalya Kalyada**. In its response, the Government referred to the illegal status of the organization Human Rights Centre Charter '97, which is not a registered organization that according to the Government has never attempted to register. The Government thus underlined that in its view the organization and its members exist and operate in violation of the law and are thereby subject to prosecution. The Government confirmed that on 2 February 2004, Natalya Kalyada was fined 20 standard units, or US\$ 160 at a fixed rate of exchange.

71. By letter dated 5 July 2004, the Government replied to the communication sent by the Special Representative on 26 May 2004 regarding the situation of the **Belarusian Helsinki Committee (BHC)**. According to reports from the Government, on 23 June 2004, the Minsk City Economic Court overturned the financial sanctions previously incurred by the BHC for the non-payment of taxes on funds received under the TACIS programme. Consequently, all charges against the BHC relating to this issue have been dropped and the court expenses transferred to the Tax Inspection Office.

72. By letter dated 17 December 2004, the Government replied to the letter of allegation sent on 30 September 2004 concerning Professor **Yuri Bandazhevsky**. Unfortunately, the English translation was not available in time to be examined and included in this report, and will thus be reported next year.

73. By letter dated 12 January 2005, the Government replied to the urgent appeal sent on 28 September 2004 concerning the **Belarusian Helsinki Committee (BHC)**, in particular its chair, **Tatiana Protsko**, and its head accountant, **Tatiana Rutkevich**. Unfortunately, the English translation was not available in time to be examined and included in this report, and will thus be reported next year.

### **Responses received to communications sent by the Special Representative in previous years**

74. By letter dated 11 February 2004, the Government replied to the urgent appeal sent jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 30 September 2003 concerning **Viasna**, and to the letter of allegation sent by the Special Representative on 2 October 2003 concerning the **Legal Assistance to the**

**Population, Ratusha, Civic Initiatives, the Kontur Centre of Youth Initiatives and Varuta.**

The Government informed that under national law, the activities of voluntary associations are monitored by the registering body to ensure their conformity with legislation and status. When a violation occurs, the registering body must issue a written warning. If a violation is repeated within a 12-month period, the voluntary association is subject to dissolution by court decision. The Government stressed that compulsory dissolution may only be ordered by a court, in compliance with international practice. According to the Government, the organizations mentioned in the communications sent by the Special Representative committed repeated and gross violations of national legislation and received official warnings. Yet the violations continued to take place, which compelled the courts to take measures. The Government informed that on 28 October 2003, the Supreme Court approved the petition of the Ministry of Justice to dissolve Viasna. The decision was based on its violation of electoral laws in its monitoring of the last presidential election. It further stated that on 13 October 2003, the Supreme Court upheld the decision of the Minsk City Court to close the organization Legal Assistance to the Population. The court based its decision on repeated violations of legislation in the course of a year, including free legal assistance to the general public provided by the organization. According to the Government, the organization had received a written warning. In its reply, the Government indicated that Ratusha had committed repeated violations in the course of a year, concerning which a written warning had been issued. Hence, the justice department of the Grodno oblast executive committee filed for the dissolution of the organization. The Government confirmed that Civic Initiatives had been closed down, and informed that the decision was based on its repeated violations that had been the subject of an official warning. The organization had used office equipment received as non-reimbursable foreign aid for the preparation of propaganda materials and the conduct of other kinds of propaganda activities. Moreover, according to the Government, the organization had, inter alia, created structures not provided for in its founding statutes. Concerning the Kontur Centre of Youth Initiatives, the Government confirmed its closure. The decision was based on several violations of national law, including the Presidential Decree on the procedure for using non-reimbursable foreign aid and tax legislation. It stated that the organization did not comply with the Voluntary Associations Act concerning the registration of changes in its statute and the submission to the registering body of documents for verification. According to the reply, the organization received two written warnings relating to these violations, and the violations continued to take place after these warnings were issued. The Government confirmed that Varuta was closed down on 9 July 2003, and informed that on 8 September 2003, the civil division of the Supreme Court upheld this decision. The Government confirmed the information contained in the communication sent on the basis for this decision.

75. By letter dated 16 June 2004, the Government replied to the urgent appeal sent on 1 October 2003 concerning **Belarusian Helsinki Committee** (BHC), and to the urgent appeal sent on 1 October 2003 concerning *Women's Response*. The Government informed that, on 17 August 2003, the Ministry of Justice issued a written warning to the Belarusian Helsinki Committee. The warning stated that inspections conducted in September 2001 and August 2002 had established that the association had used on its letterhead, its seal and stamp, a name inconsistent with its statutes. The Government stated that, at a court hearing, the association's representatives did not dispute the details of this inspection. The court could not agree with the arguments of the association's representatives that showing the association's name in English on its letterhead and seal is not against national legislation. Furthermore, according to the Government, the association's short name on its stamp, ROO BKK, is inconsistent with its

statutes. The organization's representatives had argued that the violations noted were insignificant, but the court found that the legislation governing legal disputes did not contain such a concept. Based on the evidence, the court established that the written warning issued to the association by the registering body should be declared lawful and the appeal by the association without merit. The Government further indicated that, since its registration in 2000, Women's Response had committed several legal violations, including gross ones, within one year, for which the Ministry of Justice has issued four written warnings. Inter alia, the organization's address was different from that officially registered, and the number of its members was below that required for it to be registered. The Government stated that the organization used a seal that did not contain the legal entity's full name, which is required. It stated that the arguments advanced by the organization's representatives that the association's executive body was not located at its legal addresses for valid reasons are groundless. Under the law, the executive body must be situated at the exact address indicated in its statutes and, if there is a change of address, the organization is required to amend the statutes within one month. Hence the court ruled that the applications by the Ministry of Justice for the organization to be closed down were well-founded and should be granted.

### **Observations**

76. The Special Representative would like to thank the Government for its responses, and welcomes the annulment of the financial sanctions previously imposed on the BHC for the non-payment of taxes on funds received under the TACIS programme. Nevertheless, the Special Representative remains concerned about the reported ongoing criminal investigation of the chairperson and head accountant of BHC.

77. The Special Representative takes note of the Government's explanation of the administrative and judicial proceedings carried out in the cases of Ms. Kalyada and the non-governmental organizations Viasna, Legal Assistance to the Population, Ratusha, Civic Initiatives, the Kontur Centre of Youth Initiatives and Varuta. She acknowledges that, as outlined in the Government's replies, the authorities appear to have strictly applied the legislation governing such associations in closing down these NGOs. The Special Representative regrets to note, however, that the Government's replies in relation to these cases do not dispel the grave concerns she raised in her letter of general concerns dated 18 June 2004, but rather confirm them. She observes that where the laws governing associations are incompatible with the Declaration on Human Rights Defenders, their faithful application can only result in violations of the rights enshrined in the Declaration. The Special Representative therefore urgently invites the Government to review the Law on Associations and the Presidential Decree No. 2 of 26 January 1999 in the light of the concerns expressed in her letter of 18 June 2004. She reiterates her offer to the Government to provide any support it may find useful in crafting legislation that strikes the right balance between, on one side, the need for the State to provide a framework regulating the formation and operation of NGOs, and freedom of association on the other side. She also restates her belief that, in order to engage in a meaningful dialogue in this matter, an official visit to Belarus may be very helpful. Finally, considering that changing the law might take some time, the Special Representative invites the Government to explore, as a matter of urgency, ways in which the NGOs that were closed in application of the current legislation could lawfully resume their activity while the revision of the legislation is being studied.

## **Bolivia**

### **Seguimiento de comunicaciones transmitidas previamente**

78. Por carta de fecha del 1º de marzo de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 23 de octubre de 2003 con respecto al robo en **la oficina de la Asamblea Permanente de Derechos Humanos en la ciudad de La Paz**. El Gobierno informó que el 19 de octubre de 2003, una investigación habría sido iniciada por la Policía Técnica Judicial de la ciudad de La Paz pero hasta la fecha no existen suficientes elementos probatorios debido al hecho de que los afectados no habrían presentado ninguna declaración a la división de policía.

### **Observaciones**

79. The Special Representative thanks the Government for its response.

## **Bosnia-Herzegovina**

### **Communications sent**

80. On 18 October 2004, the Special Representative sent an urgent appeal concerning the **Helsinki Committee for Human Rights in Bosnia-Herzegovina**, a branch of the International Helsinki Federation. According to the information received, on 26 September 2004, the organization's office in Sarajevo was forcibly entered and computers containing records and files concerning human rights cases and cases pending investigation were removed, and paper files were destructed. Allegedly, a camera was removed but no other valuable equipment was taken, including a new computer that did not contain any sensitive files. Concern has been expressed that the Helsinki Committee for Human Rights in Bosnia-Herzegovina may have been targeted due to their human rights activities.

### **Observations**

81. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication.

## **Brazil**

### **Communications sent**

82. On 9 February 2004, the Special Representative transmitted a letter of allegation, together with the Special Rapporteur on the independence of judges and lawyers, about the alleged killings of **Erastótenes de Almeida Gonçalves, Nelson José da Silva and João Batista Soares Lages**, three lawyers from the Brazilian Ministry of Labour. On 28 January 2004, unknown individuals in a Fiat Strada allegedly shot in the head and killed Erastótenes de Almeida Gonçalves, Nelson José da Silva and João Batista Soares Lages as they were driving to the property of a landowner in the State of Minas Gerais while they were conducting a routine inspection. It is reported that the driver, Aílton Pereira de Oliveira, was found severely wounded

and died later the same day at a hospital in Brasilia. Concern has been expressed that the three lawyers may have been killed in connection with their work defending workers' rights in Brazil. Concerns are heightened by the fact that they had been threatened as a consequence of their work advocating against and investigating conditions of slavery.

83. On 18 March 2004, the Special Representative transmitted a letter of allegation, together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, regarding the alleged killing of **Valdez Marinho Lima**, a Xerente Indian and an employee of the National Indigenous Foundation (FUNAI) who had been involved with investigating illegal mining activities on Yanomami territory. According to the information received, on 23 February 2004, Valdez Marinho Lima was reportedly shot in the chest by a group of unidentified men, thought to be illegal miners, in the Paapiu region of Yanomami territory. He and six other FUNAI agents were reportedly carrying out a mission to the region to investigate complaints about illegal miners made by Yanomami leaders at the Regional Assembly of Indigenous populations of Roraima earlier that month.

84. On 28 April 2004, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, transmitted an urgent appeal regarding the situation of **Fernanda Giannasi**, an official inspector of the Brazilian Ministry of Labour and campaigner on behalf of workers affected by asbestos. According to the information received, Fernanda Giannasi, who is the founding member of the Association of Asbestos-Exposed Workers in Brazil and the Latin America Coordinator of the Citizens Virtual Network against Asbestos, has been actively involved in exposing the dangers of asbestos to workers and in campaigning to obtain justice for injured workers for the past 20 years. She has reportedly received international honours for her work, including the International Prize of Occupational and Environmental Health from the American Public Health Association. According to the information received, in the course of her work Fernanda Giannasi has been exposed to intimidation and harassment. On 2 December 2003, she was reportedly supposed to travel from São Paulo to carry out a visit to a factory in Recife in the state Pernambuco. However, at the last minute, the Secretary of the Labour Inspection reportedly rescinded permission for her journey. On 16 December 2003, she was reportedly informed that a former Labour Minister had instigated a criminal claim against her under article 139 of the Penal Code, allowing for criminal prosecution of critics of government officials, claiming that she had offended his honour. The claims reportedly referred to public statements made by Fernanda Giannasi criticizing the creation of a trade union by an asbestos multinational with the support of the former Labour Minister, allegedly to replace an independent union which had organized a strike at one of the factories of the multinational, and despite the fact that not all legal conditions were met. The criminal proceedings against Fernanda Giannasi reportedly began on 17 February 2004 but have allegedly been postponed until September 2004. In parallel, on 1 February 2004, she reportedly received a threatening letter at her home from a group called the "movement in defence of national patrimony". The letter allegedly accused her of causing the decline of the Brazilian asbestos industry. On 20 February 2004, she received an official notification from the Minister of Labour and Employment that she was no longer authorized to carry out inspecting activities and would be required to carry out all her work from the São Paulo offices.

85. On 15 June 2004, the Special Representative transmitted an urgent action regarding the situation of **Antônio Carlos Ferreira Gabriel**, also known as "Rumba", a community leader

who had been particularly active in denouncing cases of police violence in the shantytown of Jacarezinho in Rio de Janeiro. According to the information received, since the launch of a public campaign to denounce incidents of police kidnapping of local residents in 1999, Mr. Ferreira Gabriel has reportedly been the victim of constant acts of intimidation and harassment, including anonymous threatening phone calls and a raid on his house during which he was allegedly threatened at gun point by members of the police force. It is reported that in July 2001 his wife lodged a complaint at Police Station N°25 regarding the raid. However, following numerous anonymous threatening phone calls from the police, she was allegedly forced to withdraw it. According to the information received, on 4 April 2002, "Rumba" was reportedly requested to present himself to the police, who arrested him on charges of drug trafficking and placed him in detention for four months. He was reportedly acquitted by the 34th Criminal Court on 4 February 2003. Shortly after the visit of the Special Rapporteur on extrajudicial, summary or arbitrary executions to Brazil in September 2003, which included a visit to the Jacarezinho favela during which "Rumba" was reportedly actively involved in informing the community of her visit, the decision of the 34th Criminal Court was appealed by the Public Prosecutor. On 11 December 2003, he was reportedly sentenced to eight years in prison without parole. The court judge reportedly made this decision without having reviewed the evidence that had led to his acquittal in the first trial. A habeas corpus appeal has reportedly been made to the Brazilian Supreme Court. Concern has been expressed that "Rumba" is being targeted for his human rights work on behalf of the residents of Jacarezinho community. In particular, concern has been expressed that the legal proceedings for drug trafficking charges and the decision to appeal his case may be in reprisal for his work to involve the community in reporting police violence to the Special Rapporteur on extrajudicial, summary or arbitrary executions and may be aimed at preventing him from carrying out his human rights work.

86. On 13 September 2004, the Special Representative transmitted a letter of allegation concerning the **County Community Council of Rio de Janeiro**, a public organization composed of more than thirty organizations from civil society working for the promotion of penitentiary issues in the state of Rio de Janeiro, Brazil. According to the information received, on 22 June 2004, during a visit to Milton Dias Moreira prison, Marcelo Freixo, the president of the Community Council of Rio de Janeiro, presented an authorization to photograph conditions within the prison, granted on 22 June. However, it is alleged that upon entering the prison, the authorities told the Council members that a further authorization from the secretary of the prison administration was required. They were later informed that this permission had been granted. The Community Council members then proceeded to take photographs of unsanitary conditions within the prison, such as an exposed sewage drain and fires allegedly used to burn prisoners' belongings. In the course of their visit, they were notified by the authorities that no authorization had been given and they were forced to destroy all their photographs before leaving the prison. These photographs were allegedly destroyed by an administrator and the Community Council members were forced to end their visit.

87. On 25 October 2004, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, transmitted an urgent appeal concerning the situation of **Maria Joelma da Costa**, president of the Rural Worker's Union, in Rondon do Pará, Pará State. According to the information received, Maria Joelma da Costa had been allegedly receiving anonymous threatening telephone calls to her home and office during the past months. She was allegedly threatened that she would be killed

unless she stopped her work defending rural workers. It is reported that Maria Joelma da Costa has been receiving repeated death threats since she took over the presidency of the union in mid-2002. On 6 February 2004, another colleague, Ribamar Francisco dos Santos, was reportedly shot and killed in front of his house. No one has been charged with his killing, which is believed to have been a direct result of his union activities. Maria Joelma da Costa's husband José Dutra da Costa, known as "Dezinho", a former Union president, had been killed by a hired gun-man on 21 November 2000 in front of their house after having received death threats since 1993. It is alleged that although he had repeatedly reported these threats to the authorities, no measures had been taken to ensure his protection. Concern for her safety is heightened due to the reported withdrawal of her limited police protection on 2 October 2004.

88. On 25 October 2004, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, transmitted an urgent appeal concerning the situation of **Eudo Lustosa Brasil**, member of Acre Human Rights Centre (Centro de Defesa dos Direitos Humanos do Acre), in the city of Rio Branco. According to the information received, on 19 October 2004, Eudo Lustosa Brasil was reportedly the victim of an attempt on his life when he was fired at by three men on motorcycles as he was on his way home. It is reported that he escaped unharmed; however, on 21 October 2004 he allegedly received an anonymous threatening phone call telling him that "that was just a warning, next time you will finish up in the ground". Concern was expressed that Eudo Lustosa Brasil may have been targeted as a result of his human rights work, in particular, his recent investigation and publication of the alleged torture of inmates by military police in a high security prison in Acre.

89. On 2 November 2004, the Special Representative sent a letter of allegation concerning the situation of **Carlos Roberto Salgueiro Dias** and **his wife Elisângela Batista Vieira Salgueiro Dias**, environmentalists and co-founders of the NGO Friends of Environmental Justice (Amigos da justiça Ambiental – AJA), which works to protect the right to health of the Magé community in the State of Rio de Janeiro. According to the information received, on 12 March at approximately 4 p.m., Carlos Roberto Salgueiro Dias was alone on the Rio-Teresópolis highway outside the Essencis Co-Processamento Corporation, an industrial waste processing plant, in order to determine the source of a strong odour which could be detected in his community. It is reported that the manager of Essencis, Mr. Albari G. Pedroso, stopped his car beside Carlos Dias and allegedly told him that three people were watching every move, that they knew who his wife was, her daily routine, where she worked and who her friends were. Mr. Pedroso allegedly continued to threaten him by saying that if the company was closed down as a result of his investigations, the 140 employees would make Carlos Dias pay for it. On 17 March 2004, Carlos Dias filed a complaint at Police Station No.66 in Piabetá in relation to these alleged threats. According to further information received, on 31 May 2004, Elisângela Salgueiro Dias was driving home from work in Rio de Janeiro at approximately 7.30 p.m. when a taxi carrying at least two passengers approached her car. Several shots were fired at her. One of the shots entered the front door of the driver's side and the other hit the top of the windshield on the passenger's side. Elisângela Salgueiro Dias, however, did not suffer any serious injuries as a result, apart from a bleeding hand. She was helped by two municipal guards and was taken to Police Station No.9 in the Flamingo district of Rio de Janeiro where her case was registered as an attempted homicide. As a result of these incidents, it is reported that in early June of the current year, the State Representative of Rio de Janeiro, Carlos Minc, sent a letter to the Human Rights State Secretary requesting police protection for both Carlos Dias and his wife. To this date, however,

no police protection has been granted. Carlos Roberto Salgueiro Dias and his wife decided to leave their home in Magé and the organization they co-founded, Amigos da justiça Ambiental, as they feared for their safety. Reports indicate that they have now moved to another state. Grave concern has been expressed for the life and safety of Carlos Roberto Salgueiro Dias and his wife Elisângela Batista Vieira Salgueiro Dias. It is feared that both are being targeted as a direct result of their human rights work, in particular their work to investigate the effect on their community of possible contamination caused by industrial facilities close to Magé.

### **Communications received**

90. By letter dated 1 September 2004, the Government replied to the communication sent on 28 April 2004. Firstly, the Government informed the Special Representative that the criminal charges against **Fernanda Giannasi**, although levied against her by a former Minister of State, nevertheless constituted a private, and not a public, action. Secondly, in response to concerns about the cessation of Fernanda Giannasi's inspecting activities and her relocation to the São Paulo offices, the Government stated that these decisions were taken solely for her personal safety after she became the victim of threatening letters. The Government declared that Fernanda Giannasi had since requested official protection and had resumed her external inspecting activities on 15 April 2004. It also indicated that shortly thereafter, on 20 April 2004, an Inter-ministerial Commission to elaborate a national policy on asbestos was established. Similarly, a working group on asbestos, composed of labour inspectors and experts of FUNDACENTRO (a Foundation for Labour Safety), was created by the Ministry of Labour and charged with the task of examining the impact of asbestos on workers. The Government highlighted that Fernanda Giannasi was invited to join the aforementioned working group, but to date has not accepted the invitation.

### **Observations**

91. The Special Representative thanks the Government for its response, but regrets the absence of replies to several other communications sent. She remains concerned by reports of killings, attacks and threats of defenders, particularly those working for labour rights. She refers to her main report to the Commission (E/CN.4/2005/101) for a detailed analysis of the trends in the situation of human rights defenders in Brazil. Finally, the Special Representative would like to thank the Government for their favourable response to her request for an invitation in 2005, and looks forward to her visit.

## **Burundi**

### **Communications envoyées**

92. Le 29 septembre 2004, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire et le Rapporteur spécial sur la torture, a envoyé un appel urgent concernant l'arrestation de **Pierre Claver** et **Célestin Nsavyimana**. Selon les informations reçues, MM. Pierre Claver et Célestin Nsavyimana, respectivement président et trésorier de la Confédération des syndicats du Burundi (COSYBU) auraient été arrêtés le 24 septembre 2004 au siège de leur organisation à Bujumbura. Deux

ordinateurs auraient été saisis au cours de leur arrestation. A l'heure actuelle, les deux syndicalistes seraient détenus dans les locaux de la police présidentielle et n'auraient toujours pas eu accès à leur avocat. Il a en outre été rapporté que ces arrestations seraient liées à un mémorandum critique sur l'adoption le 17 septembre 2004 d'une nouvelle constitution par le Parlement burundais que Pierre Claver et Célestin Nsavyimana avaient soumis à signature aux membres de la COSYBU. Dans ce document, les deux syndicalistes s'inquiétaient du rôle et de la place des institutions garantissant les libertés syndicales, les libertés individuelles et la stabilité politique. Des craintes ont été exprimées que ces arrestations ne visent à empêcher leurs activités pour la défense des droits de l'homme. Au vu de leur détention au secret, des craintes ont également été exprimées que ces personnes puissent faire l'objet de torture ou de mauvais traitements.

### **Observations**

93. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication.

### **Cambodia**

#### **Communications sent**

94. On 27 January 2004, the Special Representative sent a letter of allegation concerning the assassination of **Chea Vichea**, a human rights defender and president of the Free Trade Union of Workers of the Kingdom of Cambodia. According to the information received, at 9.20 a.m. on 22 January, Chea Vichea was shot three times by two unidentified assailants near Lanka Pagoda in Phnom Penh. He died instantly and the gunmen reportedly escaped. In the light of recent reported death threats against Chea Vichea, fear has been expressed that he may have been targeted for his human rights work and in particular, his active role in lobbying for improved labour conditions in the garment industry.

### **Observations**

95. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication.

### **Cameroon**

#### **Communications envoyées**

96. Le 4 juin 2004, la 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 un appel urgent concernant la situation de **Madeleine Afité**, présidente de l'Action chrétienne pour l'abolition de la torture (ACAT) à Douala, concernant une communication qui avait déjà été envoyée le 4 décembre 2003 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 sur la situation des défenseurs des droits de l'homme, et M. Essaïe Bissecq, président d'ACAT-Cameroun. Selon les informations reçues, le 3 juin 2004, Madeleine

Afité aurait reçu la visite de M<sup>c</sup> Essaïe Bisseck, président de l'ACAT-Cameroun à son bureau. Ce dernier lui aurait remis une convocation lui signifiant qu'ils étaient tous deux convoqués au commissariat spécial de la ville de Douala. La convocation n<sup>o</sup> 02/04, datée du 3 juin 2004 et signée de la main du commissaire de police Ebanda Phirma, lui demanderait de se rendre au commissariat dès sa réception. Aucun motif ne serait mentionné. Des craintes ont été exprimées que cette convocation ne soit en relation avec leurs activités de défense des droits de l'homme.

### **Observations**

97. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication.

## **Central African Republic**

### **Communications envoyées**

98. Le 8 juin 2004, la Représentante spéciale, conjointement avec la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire, a envoyé un appel urgent concernant la situation du vice-président de la Ligue centrafricaine des droits de l'homme (LCDH), **M<sup>c</sup> Goungaye Wanfiyo**. Selon les informations reçues, M<sup>c</sup> Goungaye Wanfiyo aurait organisé une conférence de presse le 25 mai 2004 pour dénoncer publiquement les dysfonctionnements de la justice centrafricaine, notamment les prolongements illégaux des détentions provisoires, en particulier dans le cas de deux de ses clients, MM. Oumarou et Boykota Zouketia, détenus à la Maison centrale de Ngaragba à Bangui. M. Oumarou aurait été arrêté et mis sous mandat de dépôt courant octobre 2003 pour atteinte à la sûreté de l'Etat. Par ordonnance du 16 avril 2004, le juge d'instruction aurait prononcé un non-lieu. La personne serait toujours maintenue en détention en violation du Code de procédure pénale. M. Boykota Zouketia aurait été arrêté par les forces de l'ordre le 7 avril 2004 et placé sous mandat de dépôt le 27 avril, accusé de détournement de fonds publics. Contestant le délai illégal de garde à vue, M<sup>c</sup> Goungaye Wanfiyo aurait saisi le Procureur de la République d'une demande de mise en liberté provisoire qui ne lui aurait pas été accordée. Le 13 mai 2004, le juge d'instruction aurait ordonné la mise en liberté provisoire assortie d'un contrôle judiciaire. Après sa libération, Boykota Zouketia aurait été de nouveau arrêté le 15 mai 2004 présumément pour les mêmes faits. Il serait depuis détenu illégalement à la prison de Ngaragba. Le 17 mai, le juge d'instruction se serait dessaisi de l'affaire, apparemment en réponse aux pressions exercées sur lui par le parquet général. A la suite de la conférence de presse de M<sup>c</sup> Goungaye Wanfiyo, le Procureur général près la cour d'appel de Bangui aurait répondu à ces dénonciations par voie de presse, menaçant M<sup>c</sup> Goungaye Wanfiyo de saisir le Conseil de l'Ordre « s'il vous persistait à traiter les Magistrats comme ses valets ».

### **Observations**

99. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication.

## **Chad**

### Communications envoyées

100. Le 1<sup>er</sup> mars 2004, la 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'allégation concernant **Tchanguiz Vathankha**, Iranien d'origine installé au Tchad depuis de nombreuses années, directeur de la radio privée Brakoss à Moissala qui diffuse des émissions relatives aux droits de l'homme. Selon les informations reçues, le 9 février 2004, Tchanguiz Vathankha aurait été arrêté suite à la diffusion sur les ondes radio d'une interview de Saleh Kebzabo, chef du parti de l'Union nationale pour le développement et le renouveau (UMDR), traitant de la situation socio-économique au Tchad. Selon les informations reçues, Tchanguiz Vathankha aurait été torturé par la police locale au cours de sa détention. Les coups qu'il aurait reçus à la tête, aux jambes et au thorax auraient provoqué une hémorragie à l'œil et des dommages à la rétine. Le médecin de l'hôpital de Moissala qui l'aurait examiné aurait déclaré que son état de santé serait critique. Il aurait été détenu pendant 48 heures à la prison de la préfecture de Moissala, où tout soin médical lui aurait été refusé, puis remis en liberté le 11 février 2004. Radio Brakoss aurait été fermée sur ordre du préfet du Bahr Sara, puis réouverte le 16 février avec une programmation limitée.

101. Le 27 juillet 2004, 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 un appel urgent concernant **Evariste Ngaralbaye** et **Allahissem Ibn Miangar**, journalistes à la radio FM-Liberté, créée par des ONG indépendantes de défense des droits de l'homme. Selon les informations communiquées, plusieurs tracts signés par des « escadrons de la mort », dont le plus récent date du 9 juillet 2004, auraient été envoyés au siège de la radio et distribués dans les rues avoisinantes. Ces tracts menaceraient explicitement de mort les deux journalistes et leur reprocheraient d'appeler leurs auditeurs à la révolte. Il est allégué que ces menaces feraient suite à une interview du musicien ivoirien Tiken Djah Fakoly réalisée le 30 mai 2004 par les deux journalistes et dans laquelle il avait formulé de fortes critiques à l'encontre de certains gouvernements africains. Bien que ces faits aient été dénoncés à la police, il semblerait qu'aucune enquête n'ait été ouverte.

### Observations

102. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications. The Special Representative regrets that the Government of Chad has not replied to her request for an invitation dated 8 July 2002 and reiterated on 2 December 2004. She encourages the Government to favourably review her request.

### Chile

#### Comunicaciones enviadas

103. El 8 de enero de 2004, la Representante Especial envió un llamamiento urgente con respecto al señor **Rodrigo López Barrera**, presidente de **TravesChile**, agrupación que trabaja en la defensa de los derechos de las personas transgénero en Aconcagua. Según la información recibida, el 16 de diciembre de 2003 habría recibido una amenaza de muerte telefónica anónima.

El 18 de diciembre, según la información recibida, mientras caminaba por la calle en San Felipe, al este de Santiago, un desconocido habría realizado varios disparos contra él, y el 20 de diciembre, habría sido seguido por un automóvil. Se teme que el ataque en contra de él esté relacionado con la documentación y la denuncia por su parte de casos de abusos policiales contra personas transgéneras. Es el segundo asalto sufrido por miembros de esta agrupación.

104. El 23 de agosto de 2004, 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 en relación con **Juana Calfunao Paillalef**, líder de una comunidad indígena mapuche del municipio de Cunco de la IX Región. Juana Calfunao Paillalef es miembro fundador de la organización no gubernamental Comisión Ética Contra la Tortura y trabaja en la promoción y protección de los derechos de su comunidad. Según las informaciones recibidas, el 26 de junio de 2004 se habría desencadenado un incendio en su casa que habría quedado completamente arrasada. Tras el incendio, se habría descubierto el cadáver calcinado de su tío Basilio Coñoenao, líder de la comunidad vecina de Juan Pichunlaf. Se alega que Basilio Coñoenao habría sido asesinado en otro lugar y que su cadáver habría sido trasladado después al lugar del incendio. Basilio Coñoenao y uno de sus sobrinos habrían recibido amenazas de terratenientes que habrían pedido a la familia que abandonara su propiedad. Se informa que los afectados habrían denunciado estos hechos a la policía nacional de la ciudad de Los Laureles y ante el Fiscal Regional, que sin embargo no habrían realizado ninguna investigación. Se informa también que durante el mes de julio de 2004 Juana Calfunao Paillalef y su familia habrían sido objeto de una campaña de intimidación que habría resultado en el asalto a piedras de su casa y disparos al aire delante de su hogar. Además de estos recientes actos de hostigamientos, se alega que en el mes de mayo de 2000, Juana Calfunao Paillalef, estando en los primeros meses de gestación, habría sido detenida por la policía local durante tres días durante cual periodo habría sufrido agresiones a manos de los carabineros que habrían provocado un aborto. La comunidad habría presentado una demanda contra los latifundistas en el Primer Juzgado Civil de la ciudad de Temuco bajo el rol N° 94055-99.

105. El 22 de octubre de 2004, la Representante Especial, junto con el Relator Especial sobre la promoción 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, el Relator Especial sobre la tortura y el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió otro llamamiento urgente en relación con **Juana Calfunao Paillalef**. Según las nuevas informaciones recibidas, el 26 de septiembre de 2004, un funcionario de la Cooperación Nacional de Desarrollo Indígena (CONADI) habría amenazado a Juana Calfunao Paillalef y a su hija de 17 años diciéndoles “¿quieres que te quemé viva ahora?” y “voy a buscar el arma para matarlos”. Se alega también que más tarde, ese mismo día, alguien habría disparado varias veces contra la vivienda provisional en la que Juana Calfunao y su familia se habían refugiado después del presunto incendio provocado que habría resultado en la destrucción de su casa y la muerte de su tío. Se teme que estas amenazas en contra de Juana Calfunao Paillalef y su familia puedan estar relacionadas con su trabajo en defensa de los derechos de su comunidad indígena. Además, se expresa temores por la seguridad y la vida de Juana Calfunao Paillalef y sus familiares.

#### **Comunicaciones recibidas**

106. Por carta de fecha de 2 de abril de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 8 de enero de 2004 con respecto al caso de **Rodrigo López Barrera**. Las autoridades habrían determinado que no podrían establecer la veracidad entera de ninguna de las denuncias afectadas; no solo por falta de pruebas, si no también existe una disparidad de opinión en lo referido a las circunstancias. Asimismo, un contacto permanente habría sido realizado entre el comisario de la Unidad de los Andes y el citado ciudadano vía teléfono y reuniones. Una vigilancia especial en el lugar de su domicilio habría sido también puesta a su disposición por el Comisario de la Unidad. El Gobierno informó que diseñó el Proyecto “Atención de Salud a Colectivos Vulnerables a la Discriminación Social” a través del que se realizaron talleres de sensibilización para optimizar la atención médica dirigida a usuarios transgéneros. Además, el Gobierno aseguró que seguirá atento a la situación de las minorías.

107. Por carta fechada el 27 de diciembre de 2004, el Gobierno contestó a las comunicaciones transmitidas por la Representante Especial referente a la seguridad de **Juana Calfunao Paillalef**. Respecto a las alegaciones de asalto por carabineros presentadas por la citada ciudadana en el año 2000, el Gobierno constató que Juana Calfunao Paillalef había sido detenida por agredir físicamente a un carabinero civil y no al contrario. Según el Gobierno, Juana Calfunao Paillalef no fue agredida por carabineros. Declaró también que no existían pruebas comprobatorias para demostrar que sufrió un aborto espontáneo como consecuencia de este presunto ataque. Sin embargo, el Gobierno informó que en la actualidad, la Fiscalía Militar está investigando esta denuncia. Con respecto a la detención de la denunciante en el año 2002 como consecuencia de una ocupación de la Gobernación de Cautín, el Gobierno informó que este hecho está siendo investigado en la Fiscalía Militar. En junio de 2004, tras el incendio de la vivienda de Juana Calfunao Paillalef en el cual se habría encontrado el cuerpo de Basilio Coñoenao, *lonko* de la comunidad indígena Juan Pichunlaf, la denunciante había manifestado que el incendio fue producto de la persecución de los latifundistas con los cuales ella habría mantenido disputas judiciales de cercamientos. El Gobierno confirmó que una causa, junto con dos querellas, habría sido formada, pero hasta la fecha no habría sido ningún pronunciamiento oficial por parte de la fiscalía. Igualmente, el Gobierno informó que Juana Calfunao Paillalef está alejada del Consejo de Todas las Tierras y que no estaría siendo apoyada en ninguna de sus demandas por esta organización indígena. Según el Gobierno, su vinculación más fuerte, es con la comunidad Unión Temulemu de la comuna de Traiguén, pero aún dentro de la cual habría generado división y problemas organizacionales, sobre todo en la distribución de recursos entregados por los programas del Gobierno. Finalmente, respecto al tema indígena en general, el Gobierno reiteró sus compromisos y avances, entre ellos una nueva política de Estado a favor de los pueblos indígenas.

### **Observaciones**

108. The Special Representative thanks the Government for its response in connection with Rodrigo López Barrera, but regrets that she has yet to receive responses to her other communications. She acknowledges the steps taken by the Government in investigating reported violations but remains concerned by the inconclusive outcome of the investigations. She is particularly concerned about the safety of human rights defenders working on indigenous issues.

**China**

### **Communications sent**

109. On 16 March 2004, 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 a follow-up urgent appeal concerning the situation of **Jiang Meili**, the wife of **Zheng Enchong**, a human rights defender who was imprisoned in October 2003, and the situation of **Shen Ting**, a campaigner on behalf of Shanghai residents displaced by urban developments, who has also been advocating the release of Zheng Enchong. According to the information received, on 28 February 2004, Jiang Meili, who had travelled to Beijing to petition the National People's Congress on behalf of her husband, was reportedly detained by five women and two men who allegedly entered her hotel room, bound and gagged her and took her to a hotel in Hubei's Canzhou City. The following day she was reportedly taken to another hotel on Hutai road. According to the information received, Jiang Meili was not informed of the reason for her detention and the men and women, reportedly officials of the Shanghai Representative Office in Beijing, the Shanghai Letters and Petitions Office and the Shanghai Municipal Public Security Bureau (PSB), did not present an arrest warrant. She was allegedly released on 1 March. It is reported that since then, she has been under police surveillance and on 4 March was prevented from leaving her home to visit her husband. When she protested, she was allegedly taken to the Guoqing Lu Public Security Bureau and was released later that day. It is also reported that the authorities have confiscated her two mobile phones and have also reportedly disconnected her home phone line. According to additional information received, the mother of Shen Ting, **Mo Zhujie**, was reportedly abducted on 5 March 2004 while visiting a displaced resident. According to the information received, 11 individuals, some wearing police uniforms and one who was allegedly identified as a member of the Shimen Erlu Public Security Bureau, reportedly entered the premises and forced Mo Zhujie into a police vehicle. They allegedly put a plastic bag over her head and threatened to kill her. She was reportedly released later that night. Concern has been expressed that Jiang Meili, Shen Ting and Mo Zhujie may have been targeted for their human rights work, and in particular for campaigning against the reportedly arbitrary imprisonment of Zheng Enchong. Fears have been expressed for the life and physical integrity of the above-mentioned individuals

110. On 5 April 2004, the 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 **Ding Zilin**, **Zhang Xianling** and **Huang Jinping**. It is alleged that on 28 March 2004, the three women, who belong to a group called the "Tiananmen Mothers", were detained in an attempt to prevent them from commemorating the 15th anniversary of the June 1989 pro-democracy protests in Tiananmen Square. It is reported that members of this group have campaigned on behalf of their children and other relatives killed there almost 15 years ago. The teenage sons of Ding Zilin and Zhang Xinliang, and Huang Jinpin's husband, had reportedly been killed at Tiananmen Square. No information on the whereabouts or on possible charges against the women is available.

111. On 23 April 2004, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a follow-up urgent appeal concerning the situation of **Wang Jinbo**, a political prisoner. According to the information received, Wang Jinbo was sentenced to four years imprisonment in December 2001

on charges of "inciting the subversion of State power". It is reported that in 2003, he was subjected to repeated beatings by other inmates, and that prison authorities had failed to take action against the perpetrators. An investigation into the beatings has allegedly not been carried out. He was also reportedly held in solitary confinement for several months in 2003. According to new information received, Wang Jinbo is now permitted visits by his family, although he is reportedly still not permitted to make telephone calls home. He has reportedly continued to conduct several hunger strikes to protest against his sentencing and his treatment in prison. It is reported that as a result, his health is deteriorating and it is not known whether he is being allowed access to medical treatment. His family have reportedly applied for his release on medical parole. Concern is expressed about the physical integrity of Wang Jinbo. Concern is further expressed that Wang Jinbo has been imprisoned for his work in defence of human rights and in particular for having called, through articles posted on the Internet, for a re-evaluation of the events surrounding the June 1989 pro-democracy protests in Tiananmen Square.

112. On 2 June 2004, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a follow-up urgent appeal concerning reports that several human rights defenders and pro-democracy activists have been recently placed under de facto house arrest, presumably to prevent them from publicly marking the 15th anniversary of the Tiananmen Square repression on 4 June 2004. It is reported that among those allegedly placed under house arrest are **Liu Xiaobo**, one of the country's leading human rights figures who strongly criticized the "subversion" charges typically brought against most of the country's cyber-dissidents, **Hu Jia**, an activist who denounced the inaction of officials in the face of the spread of AIDS in China, and **Ding Zilin**, leader of the "Mothers of Tiananmen", a group of mothers whose children were killed during the 1989 repression. According to the information received, the police have been surrounding the homes of well-known activists for several days, preventing them de facto from meeting with journalists or with each other. It is also alleged that their telephone lines are disconnected as soon as they have conversations that are deemed to be politically "sensitive", and that their Internet access has been interrupted.

113. On 14 July 2004, 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, sent an urgent appeal concerning **Zhang Youren**, the leader of a farmers' group in Tangshan, Hebei province, who organized peaceful protests against the flooding of farmland to make way for a reservoir. According to reports, Zhang Youren was arrested at his home on 6 July 2004 at around 10.00 a.m. by public security police officers. The police reportedly searched his home and beat and arrested his wife, Wang Yushu. It is alleged that Zhang Youren's detention could be linked to the visit to Tangshan by Premier Wen Jiabao, scheduled for 8 to 10 July, during which the relocated farmers had been planning to petition him to intervene in their case. The arrest of Zhang Youren is believed to be an attempt to forestall any such action.

114. On 16 July 2004, the 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, 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 concerning Mr. **Wang**

**Guofeng**, and his wife, Ms. **Li Suzhi**, both HIV-positive. According to the allegations received, they were arrested in Shangqiu city, Henan province, on 12 July 2004, when they were about to travel to Beijing to petition the National Health Department. They wanted to protest about the inadequate health care and other services for those infected with HIV/AIDS in their city. In particular, they were concerned that they had not received the medical treatment that had been promised by the central authorities. They were also concerned that the local authorities had recently closed down the school of their children, which had been set up by a local HIV/AIDS activist for children whose parents were HIV-positive or had died of AIDS. The school was reportedly closed after its founder told the authorities that he was going to Thailand to participate in the 15th International Conference on HIV/AIDS. Wang Guofeng and Li Suzhi are currently detained in Shangqiu city. In the light of reports according to which people with HIV/AIDS detained in Henan province in the past had been beaten while in police custody, concern is expressed that Wang Guofeng and Li Suzhi may be at risk of torture or other forms of ill-treatment. Concern is also expressed about their physical and mental integrity if they do not receive adequate medical treatment during their detention.

115. On 12 August 2004, the Special Representative, together with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Wang Bingzhang**, aged 57. According to the allegations received, **Wang Bingzhang**, a human rights and pro-democracy activist, was sentenced to life imprisonment in January 2003 and has been kept in solitary confinement in Shaoguan prison ever since. Up until June 2004, he has repeatedly been denied visits by family members. A senior prison official allegedly indicated that he was denied the visits as a punishment for bad behaviour. Wang Bingzhang reportedly suffered a stroke in January 2004 as a result of a hunger strike he had undertaken to protest his conditions. He has extreme difficulty in walking and appeared disoriented and confused when a family member visited him in June. In addition, he suffers from gastritis, phlebitis and varicose veins. On 9 May 2003, the Working Group on Arbitrary Detention had declared that the detention of Wang Bingzhang was arbitrary. In view of the alleged prolonged detention in solitary confinement and reports of his poor medical condition, concern is expressed about the physical and mental integrity of Wang Bingzhang if he does not receive prompt and adequate medical attention.

116. On 19 October 2004, 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 question of torture, sent an urgent appeal concerning **Yan Zhengxue**, a human rights defender, who has initiated an international petition campaign against the Re-Education Through Labour (RTL) system. According to the allegations received, Yan Zhengxue was arrested by the Zhejiang Province State Security Department police in Taizhou City, Zhejiang province, on 14 September 2004 at 2.35 p.m. and taken away to an unknown location. Concerns have been expressed that the reported arrest and detention of Yan Zhengxue may be an attempt to prevent him from carrying out human rights activities, in particular in connection with the meeting of the Central Party Committee of the 16th Party Congress. In view of his alleged incommunicado detention, concern is expressed that he may be at risk of torture or other forms of ill-treatment.

117. On 26 October 2004, 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 question of torture, sent an urgent appeal concerning Mr. **Zhang Bo**, Ms.

**Wang Jie**, and Mr. **Cai Shaojie**, three Falun Gong practitioners, and Mr. **Li Weiji**. According to the allegations received, Zhang Bo is detained at an unknown location, Wang Jie and Cai Shaojie are detained in the Dabei prison, and Li Weiji is detained in the Panjin prison. It is reported that the police broke both Li Weiji's arms and caused him a lumbar inter-vertebral disc protrusion. On 5 March 2003, these persons were sentenced to imprisonment by the Yinzhou District Court in Tieling, Liaoning province, for collecting evidence of the persecution of Falun Gong practitioners in that province (i.e. persecution by the local authorities, including local governments and local police stations, related to the use of detention, torture and forced labour). Li Weiji was also convicted of assisting Falun Gong practitioners in going abroad. Zhang Bo and Wang Jie were sentenced to seven, Cai Shaojie to four and Li Weiji to eight years' imprisonment. In view of the allegations, concern is expressed that Zhang Bo, Wang Jie and Li Weiji are at risk of torture or other forms of ill-treatment. Moreover, concern is expressed that the imprisonment of the four individuals is an attempt to prevent their activities to protect the human rights of Falun Gong practitioners in Liaoning province.

118. On 1 December 2004, 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 a follow-up urgent appeal concerning Mr. **Zheng Enchong**, a Shanghai lawyer involved in the defence of economic and social rights of displaced persons, who is currently detained at Shanghai's Tilanqiao prison. According to the information received, since being sentenced on 28 October 2003, Zheng Enchong is in prison and denied access to his lawyer, which reportedly resulted in his not being able to file an appeal application against his sentence before the Shanghai Supreme People's Court. His wife reportedly filed an application on his behalf, but the Court has not acknowledged it. Furthermore, the director of the Shanghai's Judicial Bureau and Prisons Bureau, Mr. Miao Xiaobao, reportedly visited Zheng Enchong in detention on several occasions, telling him that if he admitted wrongdoing, his three-year sentence would be reduced by one year. However, Zheng Enchong refused to do so. Moreover, according to the information received, in spite of his relatively light sentence, Mr. Zheng is kept in a high security prison where he is obliged to share his 3.5 m<sup>2</sup> cell with two other prisoners. In addition, Mr. Zheng's repeated requests to be allowed to telephone his family have consistently been denied. Concern is expressed that the denial of Mr. Zheng Enchong's right to see a lawyer and the right to appeal his sentence may be intended to prevent him from resuming his work as a lawyer who defends persons displaced from their homes by real estate projects. Such concerns are reinforced by the alleged attempts to induce Zheng Enchong to repudiate his work in defence of human rights, both by offering a reduction of his sentence and by aggravating the conditions of his detention.

### **Communications received**

119. By letter dated 26 May 2004, the Government replied to the urgent action sent on 16 March 2004 concerning **Jiang Meili**, **Zheng Enchong**, **Shen Ting** and **Mo Zhujie**. The Government informed that it had conducted diligent inquiries into the matters raised and made the following reply, reproduced in its entirety as requested by the Government.

120. "*Basic facts* 1. Jiang Meili, female, age 50, from Shanghai, was displeased that the law-enforcement authorities had punished her husband, Zheng Enchong, for breaking the Chinese criminal law and falsified news reports time and time again, starting rumours and vilifying the

Chinese authorities. In response, the Shanghai municipal petitions department engaged with her in some educative mediation, on the basis of the relevant laws. In so doing, the public security organs did not apply any kind of coercion to her, nor did they confiscate any of her private belongings. The account given in the communication does not tally with the facts.

121. “2. Mo Zhujie, female, age 65, a retired engineer from a Shanghai heavy industrial machinery plant. Her daughter, Shen Ting, aged 38, lives in Hong Kong. Recently, Mo and Shen have repeatedly spread rumours, influencing the foreign media and putting pressure on the Government in order to maximise their interests in a dispute over the demolition of their home. From March 2004 onwards, to create an impression, Mo has deliberately gone into hiding and the report has been put about abroad by her daughter, Shen Ting, that she has gone missing. On investigation, it transpires that the claims Mo was bundled by 11 individuals into a police vehicle and so forth do not tally with the facts.

122. “*A clarification* The Chinese Government guarantees citizens’ freedom of speech in accordance with the law. The Constitution states that “citizens of the People’s Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration”. There are petition offices at the National People’s Congress and at every level of government specially to deal with citizens’ criticisms and appeals to the Government and give the general public an unobstructed channel for making their views known. At the same time, Chinese law stipulates that in exercising their freedom of speech, citizens must not harm the legitimate rights and interests of the State, society or other people. Even the Universal Declaration of Human Rights clearly stipulates that in exercising their rights and freedoms, people are subject to the restrictions laid down by law. The rumours spread and the disturbance caused by Jiang, Mo and Shen have nothing to do with freedom of speech and opinion. The Chinese Ministry of Justice took no coercive action against the three women, and their personal rights and other legitimate rights and interests were effectively guaranteed.”

123. By letter dated 10 June 2004, the Government replied to the urgent action sent on 5 April 2004 concerning **Ding Zilin, Zhang Xianling and Huang Jinping**. The Government informed that it had carefully investigated the matters referred to in this letter and made the following reply, reproduced in its entirety as requested by the Government.

124. “*Basic facts* Ding Zilin, Zhang Xianling and Huang Jinping colluded with foreign organizations and jointly plotted to use such fraudulent means as the use of false labelling of goods and the forging of shippers’ names to bring illegal goods into China; they also engaged in activities that were harmful to State security, in violation of the Customs Law of the People’s Republic of China and the applicable provisions of the Security Law of the People’s Republic of China and the rules for its implementation. The relevant authorities, acting in accordance with the law, placed Ding and the others under investigation and determined that they were engaging in illegal activities. They have since made a statement of repentance and have been released from investigation; they have now returned home.

125. “*Explanatory remarks* (1) The Chinese Government guarantees citizens’ right to freedom of expression and association, in accordance with the law. The Chinese Constitution clearly stipulates that “citizens of the People’s Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration”. The Standing Committee of the

National People's Congress and all levels of government have established offices to receive communications from the public and especially to address any criticisms of or complaints about the Government that citizens might raise, thus allowing the masses to make their views known without impediment. In order to guarantee citizens' right to freedom of association and strengthen the administration of associations, the Chinese Government has promulgated three sets of laws and regulations dealing specifically with the administration and registration of public associations. There are more than 200, 000 such associations registered with the civil authorities in all localities. Public associations are an important channel through which Chinese citizens can participate in the running of State and social affairs, and play a positive and irreplaceable role in all aspects of the country's economic and social life. Nowhere in the world do duties exist without rights, and nowhere do rights exist without duties. In exercising his or her rights and freedoms, every individual must respect the law and fulfil his or her duties. China's legislation guarantees citizens' right to freedom of expression and association, but at the same time stipulates that in exercising such rights and freedoms citizens may not harm the legitimate interests of the State, society, the community or other people. In addition, while citizens are entrusted with the right to freedom of expression and association and those rights are protected, there are standards set for actions by citizens that involve speech and association, and restrictions are placed on actions that harm the legitimate interests of the State, society, the community and others; such actions must also be fully consistent with the provisions of the relevant international human rights instruments. The investigation of the actions of Ding and the others conducted by the relevant departments was based solely on those individuals' actions and has absolutely nothing to do with freedom of expression or assembly and does not constitute any kind of arbitrary detention. (2) China was one of the first States to become a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It has consistently sought to prohibit torture and seriously performs the tasks required of it under the Convention, banning torture and other cruel, inhuman or degrading treatment or punishment. The Chinese Constitution contains clear provisions protecting the right of citizens to personal security. In addition, the relevant provisions of various laws including the Criminal Law, the Criminal Procedure Law, the Police Law and the Prison Law of the People's Republic of China all clearly stipulate that it is strictly forbidden to beat or harass persons in detention or to subject them to corporal punishment or ill-treatment. Under the Provisions on Procedures for the Handling of Administrative Cases by the Public Security Organs, evidence obtained illegally by the public security authorities in their law enforcement work is considered to be inadmissible; the Provisions also and clearly stipulate that, in their law enforcement work, the public security authorities must show respect for the human rights of accused persons. In taking compulsory measures in respect of Ding and the two others the relevant authorities acted strictly in accordance with the law and conscientiously protected their legitimate rights and interests; the three were not tortured or subjected to any other inhumane treatment. The allegations in the letter do not tally with the facts."

126. By letter dated 5 July 2004, the Government replied to the urgent action sent on 23 April 2004 concerning **Wang Jinbo**. The Government informed that it had carefully investigated the matters referred to in this letter and made the following reply, reproduced in its entirety as requested by the Government.

127. "*Basic facts* Wang Jinbo is a male from Shandong Province born in October 1972. On 4 December 2001 he was sentenced by the Linzhe Intermediate People's Court in Shandong to

four years' imprisonment (from 24 May 2001 to 23 May 2005) for the crime of inciting subversion of the political authority of the State. He is currently serving his sentence in the Shandong No. 1 prison. The letter alleges that in 2003 Wang was subjected to repeated beating by other inmates and was held in solitary confinement for several months. An investigation has revealed that Wang was not involved with any fights with other prisoners during that time. On 19 November 2003 Wang was ordered by the prison administration, in accordance with the law, to spend 14 days in solitary confinement for having deliberately smashed glass and disrupted the normal prison routine. Wang subsequently acknowledged his error and undertook self-criticism in writing, so that the prison authorities released him from solitary confinement one day early. After Wang was incarcerated the prison immediately allowed him to see members of his family once a week. During "atypical" periods the prison authorities still arranged for him to speak to members of his family by telephone. The allegation in the letter that he was not permitted to make telephone calls home is inconsistent with the facts. The letter further alleges that Wang went on several hunger strikes and that his health is deteriorating. In fact, while Wang has frequently said that he was going on a hunger strike, he has never actually done so, and his body weight has increased from 64 kilograms at the time he entered prison to 74 kilos at present. Currently his health is excellent; he has never shown any illness at his annual medical check-up and his family has never applied for him to be released on medical parole.

128. *"Explanatory remarks (1) The Chinese Constitution and legislation clearly stipulate that citizens enjoy freedom of expression. Article 35 of the Constitution stipulates that "citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration". The Chinese Government, acting in accordance with the law, protects these rights and freedoms. In exercising these rights and enjoying these freedoms, however, citizens must assume their corresponding duties under the law. While the Universal Declaration of Human Rights recognizes that citizens enjoy all sorts of rights, it clearly stipulates that in the exercise of their rights and freedoms all persons shall be subject to such limitations as are determined by the law. In the present case, Wang was convicted because his actions harmed the political authority of the State, for where there are laws they must be observed. The case has nothing to do with the freedom of expression and opinion. (2) China was one of the first States to become a party to the Convention against Torture, and the banning of torture and other cruel, inhuman or degrading treatment or punishment has been one of China's a consistent positions. Legislation such as the Criminal Law and the Police Law contain extremely strict provisions relating to the ban on torture, and they seek to prevent and punish any State employees, particularly those in the justice system, who practise torture. While Wang serves his sentence his legitimate rights and interests are being thoroughly guaranteed."*

129. By letter dated 11 November 2004, the Government replied to the urgent appeal sent on 14 July 2004 concerning **Zhang Youren**. Unfortunately, the English translation was not available in time to be examined and included in this report, and the communication will thus be reported next year.

130. By letter dated 11 November 2004, the Government replied to the urgent appeal sent on 12 August 2004 concerning **Wang Bingzhang**. Unfortunately, the English translation was not available in time to be examined and included in this report, and the reply will thus be reported next year.

131. By letter dated 31 December 2004, the Government replied to the urgent appeal sent on 26 October 2004 concerning Mr. **Zhang Bo**, Ms. **Wang Jie**, Mr. **Cai Shaojie**, and Mr. **Li Weiji**. Unfortunately, the English translation was not available in time to be examined and included in this report, and the reply will thus be reported next year.

#### **Responses received to communications sent by the Special Representative in previous years**

132. By letter dated 22 December 2003, the Government replied to the letter of allegation sent jointly with the Special Rapporteur on the question of torture on 5 August 2003 concerning **Huang Qi** and **Zeng Li**, and to the letter of allegation sent jointly 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 on 8 December 2003 concerning **Huang Qi** and **Zeng Li**. The Government informed that it had carefully investigated the matters referred to in these letters and made the following reply, reproduced in its entirety as requested by the Government.

133. “*Basic facts* Huang Qi is a male born in April 1963. On 5 June 2000 he was detained in accordance with the law and subsequently arrested on suspicion of inciting subversion of the political authority of the State. On 13 February 2001 the Chengdu intermediate people’s court, acting in accordance with the law, heard Huang’s case in camera. During the trial it became impossible to proceed owing to Huang’s state of health, and the trial was postponed. After the defendant’s health was restored, hearing of the case by the Chengdu intermediate people’s court was resumed. On 9 May 2003 the Chengdu intermediate people’s court, acting in accordance with the law, issued its verdict, sentencing Huang to five years’ imprisonment and one year’s deprivation of political rights for inciting subversion of the political authority of the State. Huang contested this verdict and filed an appeal. On 7 August 2003 the Sichuan higher people’s court issued a second decision upholding the original sentence. Huang is currently serving his sentence in the Chuanzhong prison in Sichuan province.

134. “*Explanatory remarks* (a) Under the Constitution of the People’s Republic of China citizens enjoy extensive freedoms, including freedom of expression, of the press, of assembly and of association. However, when exercising these freedoms and rights, they may not harm the interests or security of the State nor may they resort to rumour mongering or defamation to incite subversion of the State’s political authority. Huang was arrested solely because he was suspected of publishing articles at his centre in which he used rumour and defamation to incite subversion of the political authority of the State, in violation of the law. Surely any country would punish acts that undermined its political authority. (b) China was one of the first countries to become a party to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. China’s consistent position has been one of opposition to those scourges. China has established a consummate body of internal human rights legislation aimed at protecting and promoting the rights of persons in detention or serving sentences, including the right to visitation and other humanitarian treatment. Laws and regulations such as the Criminal Law, the Criminal Procedure Law, the Prisons Law, the Prison Regulations and the Police Law of the People’s Republic of China afford thorough protection for the rights of offenders and persons in detention; they clearly prohibit the beating, verbal harassment, corporal punishment or ill-treatment of such persons, and the justice system does not tolerate any violation of those rights. While he was in custody in Chengdu, Huang stabbed himself with a pen to avoid being investigated. He was promptly given treatment by the police in order to save his life. In dealing

with Huang's case the Chinese public security authorities followed judicial procedures scrupulously; Huang's legal rights were fully respected, and the issue of his alleged torture simply does not arise. (c) During the time Huang was in prison, his family members came on numerous occasions to bring him money and gifts, but they never requested permission to see him. No family member was denied an opportunity to visit. At the time of his trial, the two lawyers assigned to Huang, Gao Xiaoping and Fan Jun, saw him in prison on a total of four occasions 3 January 2000, 11 September 2000, 9 February 2001 and 19 May 2003. During the trial Huang and his counsel took part in the proceedings and fully exercised his right to a defence. The allegation that Huang's attorneys saw him only once after his arrest in June 2000 is simply hearsay. (d) Because this case touched on State secrets, the hearings were held in camera, in accordance with the law. In both trials, however, the verdict was read out in an open courtroom, in accordance with the law, and during the three days leading up to the verdict the court issued public announcements abroad indicating the time and place of the judgement hearing. Therefore the allegation that neither Huang's judgement nor his sentencing were open does not tally with the facts."

135. By letter dated 2 March 2004, the Government replied to the urgent appeal sent jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 3 December 2003 concerning **Zheng Enchong**. The Government informed that it had carefully investigated the matters referred to in these letters and made the following reply, reproduced in its entirety as requested by the Government.

136. "*Basic facts* Zheng Enchong, male, is a native of Shanghai. He is a former employee of the Minjian law firm in Shanghai (who did not pass his annual qualifying review); on 6 June 2003 he was placed in criminal detention on suspicion of illegally transferring State secrets abroad, and on 18 June he was arrested. On 15 August 2003 the Second Branch of the Shanghai People's Procuratorate initiated proceedings against Zheng in the Second Intermediate People's Court of Shanghai Municipality, on charges of illegally transferring State secrets abroad. On 26 August the court heard the case in camera, in accordance with article 152, paragraph 1, of the Criminal Procedure Law of the People's Republic of China, because the case involved State secrets. The court's investigation revealed that in May 2003 Zheng had handed over to a foreign organization materials that were the property of the State. In the latter part of May, Zheng had sent official documents relating to the handling of an emergency by the Shanghai public security authorities by fax and e-mail to entities outside China. The Second Intermediate People's Court of Shanghai Municipality found that Zheng's actions violated article 111 of the Criminal Law of the People's Republic of China and constituted the crime of illegally transferring State secrets out of the country; on 28 October 2003 he was sentenced to three years' imprisonment. Following his sentencing, Zheng filed an appeal with the Supreme People's Court of Shanghai Municipality. Upon hearing the case the Supreme People's Court found that the decision of the court of first instance and the facts of the case were clear, the evidence was conclusive and sufficient, the judgement had been accurate and the severity of the penalty was appropriate; on 18 December 2003 the court rejected the appeal and upheld the original verdict. During the proceedings in the courts of both first and second instance Zheng's counsel fully exercised his right to a defence and other procedural rights.

137. "*Explanatory remarks* China's Constitution and legislation clearly stipulate that citizens enjoy the right to freedom of opinion and expression. Article 35 of the Constitution of the

People's Republic of China stated that "citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration". In exercising these rights and enjoying these freedoms, however, citizens must assume their corresponding duties under the law. While the Universal Declaration of Human Rights recognizes that citizens enjoy all sorts of rights, it clearly stipulates that in the exercise of their rights and freedoms all persons shall be subject to such limitations as are determined by the law. The present case is a criminal case involving the illegal transfer of State secrets abroad. Any restraining measures taken by China's judicial authorities in respect of Zheng were taken solely on the basis of his crime and were consistent with the relevant provisions of China's domestic legislation and international human rights conventions; the case has nothing to do with the freedom of opinion and expression."

### Observations

138. The Special Representative thanks the Government for responding to most of her communications, which attests to its willingness to cooperate with her mandate. She welcomes the release of **Ding Zilin**, **Zhang Xianling** and **Huang Jinping**. She remains deeply concerned by reports of arbitrary arrests and detention, including incommunicado, and torture and ill-treatment of defenders. The Special Representative refers to her main report to the Commission on Human Rights (E/CN.4/2005/101) for a detailed analysis of the trends in the situation of human rights defenders in China.

### Colombia

#### Comunicaciones enviadas

139. El 30 diciembre 2003, la Representante Especial envió un llamamiento urgente con respecto a la organización humanitaria Peace Brigade Internacional (PBI), particularmente dos de sus miembros, **David Raboso** y **Dorotea Timmer**, que habrían sido víctimas de hechos de intimidación. Según las informaciones recibidas, el 9 de diciembre de 2003, hacia las dos de la tarde, en un sitio ubicado entre Mangolo y Tierra Amarilla, David Raboso, de nacionalidad española, y Dorotea Timmer, de nacionalidad de los Países Bajos, voluntarios de PBI, se encontraban a bordo de un vehículo visiblemente identificado con los símbolos de la organización, acompañando a uno de los miembros de la Comunidad de Paz de Apartadó, cuando habrían sido asaltados por cuatro individuos vestidos de civil y fuertemente armados. Durante el asalto, dos de los hombres habrían apuntado con sus armas los miembros de PBI y les habrían ordenado salir del vehículo, obligándolos a entregarles sus teléfonos portables y las llaves del vehículo. Los atacantes habrían procedido a obligar al miembro de la Comunidad de Paz a que descendiera del vehículo para poder hablar con él. Los miembros de PBI habrían explicado a los hombres armados que ellos estaban en permanente relación con las autoridades de la región, los atacantes habrían respondido que no les importaba, procediendo a insultarlos. Por fin, los hombres armados se habrían llevado el teléfono portable de PBI, y varios millones de pesos, dinero propiedad de la Comunidad de Paz y destinado a la realización de sus proyectos comunitarios, así como las copias de los documentos de identificación de algunos miembros de la comunidad y sus libretas bancarias. Se informa que, algunos minutos después del asalto, se habrían encontrado con soldados del Batallón Bejarano Muñoz ante quienes habrían denunciado el asalto.

140. El 31 de diciembre de 2003, la Representante Especial envió una carta de alegación sobre la situación de **Severo Bastos**, fiscal suplente de la junta directiva de Sintradin, Sindicato de Trabajadores del Instituto Colombiano de la Reforma Agraria (INCORA), seccional de Arauca. Según las informaciones recibidas, Severo Bastos, antiguo trabajador del INCORA y actual fiscal suplente de la Junta Directiva de Sintradin, habría sido asesinado por sicarios fuertemente armados, el 14 de diciembre de 2003, en la ciudad de Villa del Rosario, Norte de Santander, lugar en donde residía desde hace algún tiempo. Este supuesto asesinato se sumaría a los crímenes ocurridos durante el último año y medio contra **Rodrigo Gamboa, Jairo Vera Arias y Mario Sierra Anaya** (16 de noviembre de 2003), todos directivos seccionales del mismo sindicato.

141. El 5 de febrero de 2004, La Representante Especial, junto con el Relator Especial sobre la promoción y protección de la libertad de expresión y opinión, envió un llamamiento urgente en acuerdo con la información recibida el 31 de diciembre de 2003 que **Inés Peña** habría sido amenazada por un desconocido que le habría sugerido abandonar el programa de televisión que conduce llamado "Cultura de Vida" en el cual habría denunciado la llegada de paramilitares en la región y la violación de los derechos humanos desde la perspectiva de los jóvenes inmersos en el conflicto. Además, según la información recibida, el 27 de enero de 2004, una delegación humanitaria formada por nueve personas, entre ellas la Presidente de la OFP, **Yolanda Becerra**, tres miembros del Consejo Noruego para Refugiados, cuatro de la Conserjería de Proyectos y uno de las Brigadas Internacionales de Paz, se habría desplazado por el río Magdalena hacia el municipio de San Pablo para visitar proyectos de vivienda de la OFP. Al pasar un control militar, varios hombres armados les habrían señalado que se detuvieran, pero la delegación no habría hecho caso y los hombres habrían disparado contra la barca. La delegación habría escapado indemne pero habría sido obligada a regresar a la ciudad.

142. El 10 de febrero de 2004, la Representante Especial envió un llamamiento urgente, junto con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias sobre la situación de los dirigentes comunitarios **Wilson David Higuita y Gildardo Tuberquia** y otros miembros de la Comunidad de Paz de San José de Apartadó. Según las informaciones recibidas, el 31 de enero, mientras varios miembros de la Comunidad de Paz esperaban el autobús en Apartadó, un desconocido que habría dicho estar allí por parte de los paramilitares que actuaban en la región de Urabá, les habría informado que los paramilitares tenían planeado matar a **Wilson David Higuita, Edelmira Durango y Arturo David** y además, de atacar y robar a toda la comunidad. Según los informes, testigos habrían indicado que el responsable de las amenazas habría sido visto participando en ataques anteriores perpetrados contra la Comunidad de Paz de San José de Apartadó por paramilitares supuestamente respaldados por el ejército. La comunidad habría denunciado esos ataques ante las autoridades pero a la fecha, no se dispone de información sobre las medidas que se han tomado para llevar a los responsables ante la justicia.

143. El 12 de febrero de 2004, la Representante Especial envió un llamamiento urgente, junto con el Relator Especial sobre la promoción y la protección del derecho a la libertad de opinión y de expresión y la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, en relación con las amenazas de muerte en contra de varios sindicalistas miembros de la asociación de educadores de Arauca (ASEDAR), al parecer por paramilitares supuestamente respaldados por el ejército. El 7 de enero, **Francisco Rojas** habría recibido en su teléfono móvil una llamada

de un hombre que le dijo "a usted le han matado a su papá, su hermano, qué más espera, le damos ocho horas para salir de la ciudad o si no huelen a cadáver...". De acuerdo con las informaciones recibidas, a primeras horas de la mañana del 28 de enero de 2004, alguien introdujo una carta amenazándole de muerte bajo la puerta de la casa de **Jaime Carrillo**, presidente del sindicato de maestros ASEDAR en el municipio de Arauca, El secretario general del sindicato, **Celedonio Jaimes Peñaloza**, y a su expresidente, Francisco Rojas, también habrían recibido cartas amenazándoles de muerte. Se informa que ese mismo día, a las 11 de la mañana, se recibió en la oficina central de ASEDAR una llamada telefónica que repetía la amenaza de muerte contra Jaime Carrillo y Celedonio Jaimes. El autor de la llamada se habría identificado como miembro de la organización paramilitar Autodefensas Unidas de Colombia (AUC). Informes señalan que Jaime Carrillo habría recibido otra carta con una amenaza similar en la cual las AUC amenazarían con matar a las mismas personas citadas en la carta del 28 de enero, además de a un maestro, Marcos García.

144. El 25 de febrero de 2004, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias en relación a las amenazas de muerte, envió un llamamiento urgente en relación con la seguridad **Jesús Alfonso Naranjo** y **Mario Mora**, representantes del departamento de derechos humanos de la Asociación Nacional de Trabajadores de Hospitales, clínicas, Consultorios y Entidades a procurar la Salud de la Comunidad (ANTHOC), un sindicato de trabajadores de la salud. Según la información recibida, Jesús Alfonso Naranjo y Mario Mora habrían sido objeto de amenazas y ataques en el pasado. En diciembre de 2003, tres hombres armados habrían atacado la esposa de Jesús Alfonso, Clara Sofía Caballero, cuando salía de su casa en Honda, departamento de Tolima. Mientras la habrían apuntado con un arma, la habrían dicho que su esposo estaba defendiendo a sindicalistas guerrilleros y que eso le costaría la vida. El 21 de enero de 2004, una carta habría sido entregada a las oficinas centrales de ANTHOC en Bogotá, la cual habría contenido una amenaza de muerte. La carta, que habría llevado el logotipo del grupo paramilitar supuestamente respaldado por el ejército los Autodefensas del Magdalena Medio, habría acusado a Jesús Alfonso Naranjo y Mario Mora de ser guerrilleros infiltrados en el movimiento sindical. Habría informado a los dos hombres que los paramilitares los habrían declarado objetivo militar y habría manifestado que los matarían donde quiera que se encuentren. Se teme que estas amenazas de muerte estén relacionadas con su actividad de derechos humanos, y en particular su trabajo de denunciar las repetidas amenazas, desplazamientos forzados y asesinatos de funcionarios de salud por parte de los grupos paramilitares.

145. El 27 de febrero de 2004, la Representante Especial, junto con la Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente en relación con la situación de **miembros de la Asociación Campesina de Arauca (ACA)** y en particular de **Luz Perly Córdoba**, **Juan de Jesús Gutiérrez**, **Víctor Enrique Amarillo** y **Moisés Elías Eregua**. Según la información recibida, el 18 de febrero de 2004, miembros del Departamento Administrativo de Seguridad (DAS) habrían detenido a la presidente de la ACA, Luz Perly Córdoba, cuando salía de sus clases en la Universidad INNCA de Colombia. Luz Perly Córdoba estaría detenida en las instalaciones del DAS de Paloquemao en Bogotá. Su vivienda habría sido registrada en un operativo policial durante el cual el disco duro de la computadora, fotos, disquetes y papeles habrían sido sustraídos. De acuerdo con la información recibida, el mismo

día, miembros de la Dirección de Policía Judicial e Investigación (DIJIN), del Cuerpo Técnico de Investigaciones de la Fiscalía (CTI), del DAS y de la policía general en el municipio de Arauca se habrían presentado en las oficinas de la ACA, en el municipio de Arauquita, supuestamente con la misión de buscar documentos subversivos de acuerdo con una orden de un fiscal adscrito a la Fiscalía General de la Nación. Al encontrar las oficinas cerradas, los miembros de la operación se habrían dirigido a la casa de la dirigente de la ACA, Nubia Vega. Habrían allanado la vivienda y tomado fotos. También habrían detenido a dos de los escoltas de la ACA, Víctor Enrique Amarillo y Moisés Elías Eregua. Miembros del CTI se habrían llevado al esposo y al hijo de tres años de edad de la secretaria de la ACA para que ésta les abriera las oficinas. La secretaria habría llegado poco después para permitir la entrada a los responsables del operativo policial, los cuales se habrían llevado el disco duro de la computadora, documentos que contenían lecturas sobre derechos humanos, los estatutos de la ACA, los recibos del teléfono, tres disquetes y dos fotografías. El 19 de febrero, el tesorero de la ACA, Juan de Jesús Gutiérrez, habría sido detenido en Saravena y llevado a las instalaciones de la Brigada 18 del Ejército en Arauca donde habría sido mantenido incomunicado. Le habría sido negada la visita de un abogado así como el acceso a alimentación y su ropa. Se teme que la supuesta detención de los miembros de la ACA esté relacionada con sus actividades en favor de los derechos humanos. Igualmente se informó que los miembros de la ACA habrían sido víctimas de constantes amenazas y hostigamiento. Tras recibir amenazas contra su vida, Luz Perly Córdoba se habría ido de Arauca para vivir en Bogotá. La Corte Interamericana de Derechos Humanos (CIDH) habría solicitado la adopción de medidas cautelares para su protección. Víctor Enrique Amarillo y Moisés Elías Eregua formaban parte de la escolta nombrada por el Ministerio del Interior para proteger a los miembros de la ACA, en cumplimiento de las medidas cautelares recomendadas por la CIDH.

146. El 9 de marzo de 2004, la Representante Especial envió una carta de alegación sobre la situación de la **Corporación Casa de la Mujer**, una organización no gubernamental que trabaja para la promoción, protección y exigibilidad de los derechos humanos de las mujeres. Según la información recibida, el 19 de diciembre de 2003 hacia las 19.15 horas, cuatro hombres armados habrían ingresado a una de las sedes de la Corporación Casa de la Mujer en la ciudad de Bogotá. Bajo amenazas, habrían obligado, a los trabajadores presentes, **Emilce Marroquin, Myriam Pérez y Richard Alarcón**, a tenderse en el suelo bajo la vigilancia armada de uno de ellos, mientras los otros tres atacantes se habrían allanado a las oficinas. Según la información, habrían cortado las comunicaciones y se habrían llevado los discos duros de las computadoras, los cuales contenían información relacionada con los proyectos institucionales de la Casa de la Mujer, información sobre los espacios sociales en los que participa, la base de datos de las organizaciones nacionales e internacionales con las cuales está relacionada la institución y las mujeres líderes con las que trabaja, las agencias financiadoras y además información contable y financiera. Se informa que a pesar de que en las oficinas se encontraban otros equipos de cómputo y de comunicación, estos no habrían sido sustraídos. Según la información, después del incidente los trabajadores habrían llamado a la policía desde un teléfono público, y se habrían presentado inmediatamente en el lugar dos agentes de la policía. Sin embargo, según la información, la policía no habría abierto ningún acto oficial de la denuncia presentada y tampoco habrían atendido a las descripciones o datos que habrían contribuido a identificar o a capturar a los implicados.

147. El 10 de marzo 2004, la Representante Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y expresión, envió un llamamiento

urgente sobre la situación de **Berenice Celeyta**, presidenta de la Asociación para la investigación y acción social NOMADESC y asesoría del departamento de derechos humanos del Sindicato de las Empresas Municipales de Cali (SINTRAEMCALI). Según la información recibida, el 6 de febrero de 2004, un explosivo habría sido colocado en la puerta de entrada de la sede de SINTRAEMCALI, donde se encuentran también las oficinas de NOMADESC. Según la información, el mismo día, Berenice Celeyta habría recibido una llamada en su teléfono celular, teléfono que le fue asignado por el Programa de protección del Ministerio del Interior donde se habría escuchado una ráfaga de arma de fuego. Ambos hechos habrían ocurrido unas horas después de la visita de una delegación británica organizada por la organización no gubernamental inglesa Justice for Colombia y compuesta de diputados, sindicalistas y miembros de organizaciones no gubernamentales, que habrían venido para recibir denuncias sobre las violaciones de derechos humanos cometidos contra los sindicales y defensores de derechos humanos. Además según la información, el 19 de febrero, Berenice Celeyta habría encontrado en su contestador automático un mensaje que habría dicho “hija de puta, uno de estos días la vamos a matar”.

148. El 15 de marzo de 2004, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias envió un llamamiento urgente sobre el supuesto asesinato de **José Luis Torres**, un activista del sindicato de trabajadores de Salud ANTHOC y a la situación de **Jesús Alfonso Naranjo** y **Mario Mora**, miembros de ANTHOC cuyo caso fue objeto de un llamamiento urgente enviado conjuntamente el 25 de febrero de 2004 por la Representante Especial del Secretario General sobre los defensores de los derechos humanos, el Relator Especial sobre el derecho a la libertad de opinión y de expresión y la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias. Según la información recibida, el 4 de marzo de 2004, José Luis Torres habría sido asesinado por impactos de bala por hombres no identificados en la entrada principal del Hospital General de Barranquilla donde trabajaba. Se informa que los miembros de la ANTHOC estarían siendo víctimas de constantes amenazas y hostigamiento por grupos paramilitares supuestamente respaldados por el ejército. En este contexto, la Representante Especial recuerda su comunicación del 25 de febrero de 2004 en la que ya se mencionaba la situación de Jesús Alfonso Naranjo y Mario Mora, y las amenazas que habrían recibido el 21 de enero de 2004.

149. El 15 de marzo de 2004, la Representante Especial, junto con el Relator Especial sobre la independencia de magistrados y abogados y el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente sobre la situación de **Rodolfo Ríos Lozano**, abogado de derechos humanos que representa a Luz Perly Córdoba, presidenta de la ACA, cuyo caso fue objeto de un llamamiento urgente enviado conjuntamente el 27 de febrero de 2004 por la Representante Especial, la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, y el Relator Especial sobre el derecho a la libertad de opinión y de expresión. Según la información recibida, el 24 de febrero de 2004, después de la indagatoria de Luz Perly Córdoba, Rodolfo Ríos Lozano habría recibido dos llamadas telefónicas anónimas. En la primera llamada el autor le habría acusado de ser un “perro terrorista de las FARC, abogado defensor de narcoterroristas” y en la otra, dos horas más tarde, le habría dicho que debería escoger entre abandonar el país, dejar los casos en los que estaba trabajando, o morir. Se informa además que Rodolfo Ríos Lozano habría sido sometido a vigilancia y habría sido seguido por unos hombres no identificados.

150. El 15 de marzo de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente sobre la situación de **Marina Navarro y Daniel Botella**, dirigentes de la Asociación de Campesina de Arauca en el municipio de Tame, quienes habrían recibido amenazas de muerte. Según la información recibida, el 21 de febrero, miembros de la Brigada Móvil núm. 5 del ejército habrían entrado en la zona de Botalón, al parecer con órdenes de detener a Marina Navarro y Daniel Botella. Se informa que los soldados habrían dicho que no pensaban capturar a los dos dirigentes, sino que los iban a “dar de baja”.

151. El 18 de marzo de 2004, la Representante Especial, junto con el Relator Especial sobre la tortura y el Relator Especial sobre el derecho a la libertad de opinión y expresión, envió una carta de alegación sobre los siguientes casos. **Emanuel Rivero**, defensor de derechos humanos e integrante de la Fundación Comité Regional de Derechos Humanos "Joel Sierra", habría sido golpeado cuando tropas del Batallón Revéz Pizarro habrían allanado su casa en el barrio Vicente Primera Etapa, departamento de Arauca, el 1 de octubre de 2002. Emanuel Rivero se habría identificado como integrante del Comité de Derechos Humanos “Joel Sierra” en Saravena y habría explicado a los soldados que la documentación que tenía eran materiales proporcionados por el Colectivo de Abogados José Alvear Restrepo y Humanidad Vigente, dos organizaciones no gubernamentales colombianas, ya que estaba capacitándose en derechos humanos. Los soldados le habrían respondido que se trataba de política del Ejército de Liberación Nacional (ELN) y le habrían golpeado en la cara, mientras habrían seguido allanando la casa. Los soldados habrían encontrado unos videos de movilizaciones campesinas que habrían calificado de estar relacionados con la guerrilla y le habrían golpeado de nuevo. Los soldados también habrían encontrado un estuche de cirugía que empleaba para hacer las prácticas del bachillerato agrario y le habrían dicho que lo utilizaba para auxiliar a la guerrilla. Posteriormente se lo habrían llevado en una camioneta donde un soldado habría continuado pegándole hasta el punto que otro militar le recriminó. Una vez en la base del Batallón Revéz Pizarro lo habrían tirado al suelo boca abajo y con las manos atadas. Habría pasado la noche atado a una ventana junto a un sofá. Al día siguiente habría sido interrogado, sin atender la reclamación de que hubiera presencia de la Personería o de un abogado. Habría sido puesto en libertad unas horas más tarde pero no le habrían devuelto los documentos decomisados. **Eduardo Peña Chacón**, de 19 años de edad, **Ronald Peña Chacón**, de 15 años de edad, **Pedro Jaime Mosquera y Martino Mosquera**, miembros de la ACA, así como **Reinel Hermosa**, familiar de un socio de la ACA, que habrían sido detenidos el 16 de mayo de 2003 por agentes de la fuerza pública en los municipios de Saravena y de Arauquita, departamento de Arauca. ACA contaría con medidas cautelares de protección dictadas por la Comisión Interamericana de Derechos Humanos, pero sería objeto de constantes intimidaciones, señalamientos y agresiones por parte de agentes estatales y por los paramilitares de las AUC. Los hermanos Peña Chacón y Reinel Hermosa habrían sido conducidos al puesto de policía de Arauquita, donde a Ronald y Eduardo Peña Chacón habrían puesto bolsas plásticas en la cabeza, los habrían sumergido en agua, golpeado y acusado de ser guerrilleros. Habrían sido puestos en libertad diez horas más tarde sin recibir ningún tipo de explicaciones. Reinel Hermosa también habría sido golpeado y posteriormente trasladado a la cárcel de Arauca.

152. El 18 de marzo de 2004, la Representante Especial, junto con el Relator Especial sobre la tortura, envió una carta de alegación en relación con **Juan Carlos Celis González**, defensor de derechos humanos y miembro de la Corporación Movimiento por la Vida, quien habría sido detenido por miembros de la Policía Nacional el 11 de diciembre de 2002 en Bogotá. Los hechos habrían tenido lugar en el marco de una serie de operativos adelantados por miembros de la fuerza pública, quienes con fundamento en información entregada por la red de informantes o cooperantes, habrían llevado a cabo cerca de 50 allanamientos en toda la ciudad. En este contexto, el apartamento de Juan Carlos Celis González habría sido allanado por aproximadamente 15 personas, algunas de ellas miembros de la Policía Nacional uniformados y fuertemente armados y otras vestidas de civil, quienes habrían entrado en la casa sin orden judicial y sin acompañamiento de la Fiscalía, ni de la Procuraduría. En el apartamento, Juan Carlos Celis González habría sido insultado, puesto bocabajo en el suelo, esposado y golpeado. Su cabeza habría sido tapada con una chaqueta. Al no contestar a las preguntas que le hacían, habría sido sometido a choques eléctricos en todo el cuerpo, mientras los agentes habrían manipulado una grabadora y le habrían ordenado que confesara que era responsable de unos atentados. Ese mismo día, habría sido trasladado a las instalaciones del Servicio de Investigaciones Judiciales e Inteligencia de la Policía (SIJIN), sin permitirle informar a sus familiares que había sido detenido. Su detención habría sido oficializada mediante la firma de un acta donde no habrían constado los motivos de su captura. Habría sido obligado a firmar un acta de buen trato durante el procedimiento de registro de su lugar de habitación. Durante la diligencia de indagatoria, Juan Carlos Celis González habría puesto en conocimiento de las autoridades las torturas de las que habría sido víctima por parte de los miembros de la Policía Nacional, pero no se habrían practicado los exámenes de medicina legal, ni se habría iniciado investigación alguna tendiente a esclarecer los hechos. Por otra parte, se habría adelantado una investigación penal en contra de Juan Carlos Celis, por los cargos de terrorismo, rebelión y fabricación, tráfico y porte ilegal de armas en la modalidad de almacenamiento.

153. El 5 de abril de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente en relación con la situación del líder indígena Kankuamo **Gilberto Arlanht Ariza**, y de los dos estudiantes **Germán Acosta** y **Diego Sierra**, quienes habrían participado en el XXXV Congreso Mundial de la Federación Internacional de Derechos Humanos (FIDH) en Quito entre el 1 y 6 de marzo de 2004. Según la información recibida el 2 de marzo, Gilberto Arlanht Ariza habría denunciado ante el Congreso el supuesto genocidio que habría sufrido el pueblo Kankuamo desde el año 2001. Según se informa ese mismo día un grupo armado habría llegado al domicilio de Gilberto Arlanht Ariza en Bogotá. Habrían disparado contra la puerta y habrían proferido amenazas contra las personas que se encontraban allí. Según la misma información, el 3 de marzo, se realizó una asamblea general en la Universidad de Tolima. Se informa que durante la asamblea general habrían sido circulados panfletos acusando a Germán Acosta y a Diego Sierra de pertenecer a la guerrilla y también habrían acusado a miembros del Comité Estudiantil de Bienestar Universitario de apoyar acciones de protesta de tipo violento.

154. El 7 de abril de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente sobre la situación de miembros del **Sindicato Nacional de Trabajadores de la Industria de Alimentos** (SINALTRAINAL). Según la información recibida, el 15 de marzo de 2004, miembros de

SINALTRAINAL en Bucaramanga, Cúcuta, Barrancabermeja, Cartagena, Valledupar, Cali, Medellín y Bogotá habrían iniciado una huelga de hambre con el objetivo de reiterar sus denuncias en el ámbito internacional sobre los asesinatos, las desapariciones forzadas, los actos de hostigamiento y las amenazas de muerte y otras graves violaciones de derechos que estarían padeciendo los miembros de este sindicato. Se informa además que en febrero de 2004, SINALTRAINAL habría interpuesto una acción de tutela en contra de la empresa BURNS PHILP COLOMBIA S.A. por el despido de los trabajadores del 29 de enero de 2004. El 19 de marzo, se habría hecho pública la sentencia del juez 3º Civil Municipal de Palmira Valle en la que se exigía a dicha empresa que reintegrara a los dos trabajadores. En este contexto, y según la información recibida, el 19 de marzo de 2004, un comunicado firmado por las AUC habría sido circulado en el departamento de Valle de Cauca. El comunicado contendría la siguiente amenaza contra los integrantes de SINALTRAINAL: “El bloque conjunto calima pacífica y demás colaboradores urbanos de la ciudad de Palmira, declaran la guerra a estos sujetos ya identificados como directivos de esta organización, para que la abandonen en un plazo no mayor de tres meses de lo contrario serán declarados objetivos militares por nuestra organización y acabaremos con todos.” Se informa además que el 20 de marzo, una carta parecida habría llegado a la sede de SINALTRAINAL en Palmira Valle señalando que los directivos de esta asociación eran colaboradores en la insurgencia en el Valle de Cauca.

155. El 23 de abril de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente sobre la situación de **Ademir Luna**, periodista y miembro de la Corporación Regional para la defensa de los Derechos Humanos (CREDHOS), una organización de derechos humanos en Barrancabermeja, Departamento de Santander, que había públicamente denunciado la presencia de los paramilitares en la región. Según la información recibida, el 3 de febrero de 2004, hacia las nueve de la noche, Ademir Luna habría observado que varios hombres estaban vigilando su casa. Según la información recibida, el 29 de marzo de 2004, en un caso de confusión de identidad, Fabián Correa, el conductor de un taxi que es de propiedad del padre de Ademir Luna, Eduardo Luna, habría sido atacado por dos hombres. Los individuos habrían subido al taxi y obligado a Fabián Correa a conducir hacia una calle sin salida, sitio en la cual lo habrían encañonado con armas de fuego diciéndole “Usted es Ademir Luna, cierto? Lo vamos a matar.” Según los informes, habrían colocado a Fabián Correa contra el timón del automóvil y le habrían rociado gasolina en el cuerpo y en el automóvil, amenazando con quemarlo, mientras le habrían dicho “que sí que era Ademir Luna. Ese carro era de Ademir.” Posteriormente, los individuos armados habrían intentado encender al automóvil pero al no funcionar el encendedor, se habrían marchado diciéndole “Sabe qué, gordo hijo de puta, usted está rezado. Dígale a esa gonorra que se cuide, que lo vamos a matar.” Fabián Correa se habría dirigido inmediatamente a la policía para denunciar lo ocurrido.

156. El 26 de abril 2004, la Relatora Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente sobre el supuesto asesinato de **Gabriel Remolina**, de su esposa **Fanny Robles** y su hijo **Robinson Remolina**. Gabriel Remolina es el cuñado de **Efraín Guerrero**, presidente de la seccional del SINALTRAINAL. Se señala que los miembros de dicho sindicato ya fueron objeto de un llamamiento urgente, enviado conjuntamente el 7 de abril de 2004 por el Relator Especial sobre el derecho a la libertad de opinión y de expresión, la Relatora Especial sobre ejecuciones extrajudiciales y la Representante

Especial. Según la información recibida, el 15 de marzo de 2004, miembros de SINALTRAINAL en varias regiones del país habrían iniciado una huelga de hambre con el objetivo de reiterar sus denuncias en el ámbito internacional sobre las graves violaciones que estarían padeciendo los miembros de este sindicato. El señor Efraín Guerrero habría participado en la huelga de hambre. El 19 de marzo de 2004, un comunicado firmado por las AUC habría sido circulado en el departamento de Valle de Cauca, en el que se habría amenazado a los directivos de SINALTRAINAL que abandonen su trabajo o que serán declarado objetivo militar. En este contexto, y según la nueva información recibida, el 20 de abril de 2004, un grupo de hombres armados habría ingresado en la casa de Gabriel Remolina en la ciudad de Bucaramanga, Departamento de Santander. Los hombres habrían disparado contra la familia. Habrían matado a Gabriel Remolina y Fanny Robles y herido a sus tres hijos, los cuales habrían sido llevados al hospital. Uno de ellos, Robinson Remolina, habría fallecido poco después. Se informa además que el 14 de abril, otro miembro de SINALTRAINAL, **Onofre Esquivel**, habría sido amenazado por dos individuos en su vivienda en Bugalagrande, Departamento del Valle. Según los informes, Onofre Esquivel habría sido amenazado de muerte previamente por los paramilitares, supuestamente respaldados por el ejército, en octubre de 2003.

157. El 10 de mayo de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió una carta de alegación sobre el supuesto asesinato de **María Lucero Henao**, presidente de la Junta Acción Comunal en la Vereda Puerto Esperanza del municipio El Castillo, en el Departamento del Meta, y de su hijo, **Yamid Daniel**, de 16 años de edad. Según las informaciones recibidas, el 6 de febrero de 2004, a las 22.30 horas, civiles armados al parecer pertenecientes a grupos paramilitares, habrían llegado a la casa de María Lucero Henao en la Vereda Puerto Esperanza. Al principio, ella se habría negado a abrir, pero cuando los hombres habrían amenazado de tumbar la puerta, se habría sentido obligada a abrirla. Los hombres la habrían llevado a la fuerza a pesar de los ruegos de su madre, sus hijas y su hijo, quienes salieron detrás para tratar de impedir el hecho. Según la información, durante el trayecto a las afueras del caserío, los hombres armados habrían intentado amarrar a María Lucero Henao con cuerdas de nylon mientras le habrían gritado “desde hace tiempo le teníamos ganas pero no se había presentado la oportunidad” y a la familia le habrían acusado de ser guerrilleros. A cinco minutos de la casa habrían obligado a la madre y a las hijas a volver y habrían quedado con María Lucero Henao y Yamid Daniel Henao. Poco después, la familia habría escuchado disparos de armas de fuego pero, por miedo no habrían salido de la casa hasta la madrugada, cuando habrían encontrado los dos cuerpos sin vida. De acuerdo con la información, el cuerpo de Yamid Daniel Henao se encontraba desfigurado, con impactos en la boca y con una oreja amputada. Según la información, María Lucero Henao y su familia habría sido una de las diez únicas familias que había permanecido en el caserío Puerto Esperanza después de la incursión paramilitar del 2 de agosto del 2001. En su calidad de presidenta de la Junta Acción Comunal para defender los derechos de los habitantes del caserío y ante la supuesta ausencia de la actuación rápida y oportuna de las autoridades, María Lucero Henao, habría tenido que realizar el levantamiento de los cadáveres de siete vecinos de su vereda. Se informa además que en varias ocasiones habría denunciado la grave situación de los pobladores de Puerto Esperanza ante la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos y varias delegaciones diplomáticas con asiento en Colombia, entre ellas las embajadas de Austria, Canadá, Gran Bretaña, Italia, Alemania y Francia. También, habría representado su comunidad ante la Comisión Interinstitucional que visitó la zona en 2003, y habría relatado los hechos de

agresión que sufría la comunidad debido a la permanente presencia en la zona de los paramilitares supuestamente respaldados por el ejército. Se informa que habría sido objeto de amenazas y de un intento de asesinato en los últimos tres años.

158. El 13 de mayo de 2004, La Representante Especial, junto con el Relator Especial sobre la independencia de magistrados y abogados, envió una carta de alegación sobre el supuesto asesinato del abogado **Carlos Bernal**, miembro del Comité Permanente para la Defensa de los Derechos Humanos y del Frente Social y Político, que habría sido asesinado el 1º de abril de 2004 en la ciudad de Cúcuta por una persona no identificada, que le disparó varias veces en la cabeza cuando se encontraba en un establecimiento de venta de comida. Otra persona no identificada habría disparado a la cabeza de su guardaespaldas **Camilo Jiménez**, quien falleció horas más tarde. Se informa que al momento de su muerte, Carlos Bernal habría estado beneficiario del Programa de Protección del Ministerio del Interior y de Justicia. Este ataque pone en evidencia una vez más la precaria situación que viven los abogados defensores de derechos humanos en Colombia, quienes enfrentan amenazas, ataques físicos y, en casos como el presente, la muerte.

159. El 28 de mayo de 2004, la Representante Especial envió un llamamiento urgente sobre la situación de **Carlos Alberto Hurtado Aramburo**, el sobrino de **Jorge Isaac Aramburo García**, líder del Movimiento Negro en Colombia y del Consejo Comunitario del Río Yurumanguí. Según la información recibida, el 1º de octubre de 2003, la Comisión Interamericana de Derechos Humanos habría otorgado medidas cautelares a favor de Jorge Isaac Aramburo García para protegerle tanto a él, como a su familia, ya que desde el año 2000 11 miembros de su familia habrían sido asesinados por miembros de los grupos paramilitares supuestamente respaldados por el ejército. En este contexto y según la información recibida, el 11 de mayo de 2004 a las 17.00 horas, Carlos Alberto Hurtado Aramburo habría sido secuestrado de su residencia en el Barrio la Independencia por dos individuos desconocidos que se movilizaban en un taxi. Según los informes, desde esa fecha no se habría tenido noticias de su paradero.

160. El 21 de junio de 2004, la Representante Especial, conjuntamente con la Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, envió un llamamiento urgente en relación con **Mauricio Avilez Álvarez**, representante del Comité Operativo de la Coordinación de Derechos Humanos Colombia-Europa-Estados Unidos (CCEEU), una organización que produce informes a nivel internacional sobre la situación de derechos humanos en Colombia. Según las informaciones recibidas, Mauricio Avilez Álvarez habría sido detenido el 10 de junio de 2004 en Barranquilla por miembros del Grupo de Acción Unificada por la Libertad Personal (GAULA) del ejército. El Sr. Avilez Álvarez habría sido trasladado en un vehículo sin placas hasta los calabozos de la Segunda Brigada de Barranquilla. Habría sido acusado de rebelión, extorsión y homicidio agravado por la colocación de un artefacto explosivo el 16 de diciembre de 2003 en el centro comercial SAO de Barranquilla, atentado en el cual falleció una persona. Se informa, sin embargo, que ese día el Sr. Avilez Álvarez habría participado en un taller de la Coordinación en Barranquilla y que por lo tanto, no pudo haber participado en la comisión del atentado descrito. El Sr. Avilez Álvarez se encuentra actualmente detenido en la cárcel "El Bosque" de Barranquilla. Se informa, por último, que habría sido detenido y acusado con el objeto de amedrentarlo para que cese en sus actividades de defensa de los derechos humanos y de denuncia de las políticas gubernamentales en materia de seguridad.

161. El 5 de julio de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente sobre la situación de **Luz Perly Córdoba** y **Juan de Jesús Gutierrez Ardila**, presidenta y tesorero de la ACA, cuyo caso ya fue objeto de un llamamiento urgente enviado el 27 de febrero de 2004 por la Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria conjuntamente con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y la Representante Especial. Según la información recibida, Luz Perly Córdoba y Juan de Jesús Gutierrez Ardila habrían sido detenidos durante la noche del 18 de febrero de 2004 en Bogotá. Según la nueva información recibida, el 18 de junio de 2004 Luz Perly Córdoba y Juan de Jesús Gutierrez Ardila habrían cumplido 120 días de privación de la libertad sin que la fiscalía hubiera hecho la calificación del mérito de la instrucción como lo establece la ley.

162. El 7 de julio de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y el Relator Especial sobre la independencia de magistrados y abogados, envió una carta de alegación con respecto a **Pedro Julio Mahecha Ávila**, abogado y miembro de la Corporación Colectivo de Abogados “José Alvear Restrepo”, quien habría sufrido actos de hostigamiento por parte del DAS el 14 de mayo de 2004. El abogado habría sido hostigado y seguido en la ciudad de Cartagena por personas que se habrían identificado como funcionarios del DAS. La misma tarde, el abogado habría denunciado el supuesto hostigamiento ante la policía. Sin embargo, el hostigamiento habría continuado y el abogado habría abandonado la ciudad de Cartagena y anulado un viaje a la ciudad de Barranquilla, donde se habría comprometido a dirigir un programa auspiciado por la Unión Europea. Los informes indican que funcionarios del DAS habrían dispuesto un operativo en la ciudad de Cartagena con el fin de demostrar que Pedro Julio Mahecha Ávila era guerrillero de las FARC. Este supuesto hostigamiento podría ser relacionado con su trabajo como abogado y defensor de derechos humanos.

163. El 28 de julio de 2004, la Representante Especial envió una carta de alegación sobre el supuesto asesinato de **Carmen Elisa Nova Hernández**, fiscal del Sindicato de Trabajadores de Clínicas y Hospitales de Santander (SINTRACLINICAS). Según las informaciones recibidas, el 15 de julio de 2004, a las 20.15 horas, Carmen Elisa Nova habría sido asesinada al ingresar a su domicilio, después de cumplir la jornada laboral en la ciudad de Bucaramanga, Santander. De acuerdo con las informaciones, dos sicarios que se habrían trasladado en una moto con la placa cubierta por un trapo le habrían disparado en tres ocasiones causándole la muerte. La Sra. Nova Hernández habría trabajado como enfermera desde hacía 28 años en la Clínica Bucaramanga, donde se habría afiliado a la organización sindical para la protección de los derechos de los trabajadores. Habría sido elegida como fiscal del sindicato el pasado 24 de julio. Se informa también que los miembros de SINTRACLINICAS habrían interpuesto demandas ante la Fiscalía, La Defensoría del Pueblo y otros organismos públicos, refiriéndose a actos de hostigamiento que habrían sufrido desde marzo del 2002, cuando hubo un intento de secuestrar a la presidenta del sindicato. Se teme que este supuesto asesinato esté relacionado con el trabajo de Carmen Elisa Nova Hernández en favor de los derechos humanos, y en particular su trabajo de sindicalista en defensa de los derechos de los trabajadores.

164. El 6 de agosto de 2004 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 en relación con la situación de inseguridad, peligro e indefensión en la que se encuentran algunos líderes indígenas de la **Organización Zonal Indígena del Putumayo (OZIP)**. Según la información recibida, los días 2 y 3 de junio 2004, algunos miembros de dicha organización habrían recibido amenazas de muerte por parte de hombres armados no identificados. A Hermes Meliton Narváez, que ocupa el cargo de presidente, José Antonio Jajoy Pai, tesorero, Luis Alejandro López Agreda y Rosaura Guzman, respectivamente secretario general y vocal de la OZIP, habría sido ordenado bajo amenazas de muerte de abandonar su ejercicio de liderazgo y de acabar las actividades de la organización. A pesar de que las instituciones públicas informadas de los hechos, entre otras, la Defensoría del Pueblo, el Ministerio del Interior, la Policía Nacional y el Servicio de Inteligencia (SIJIN), habrán habilitado mecanismos temporales de protección de los líderes de la OZIP, el 24 de junio 2004, Luis Alejandro López Agreda habría recibido una nueva llamada telefónica en la que se le transmitía el mismo mensaje intimidatorio. Según se informa, el presunto autor de la amenaza se habría presentado como miembro de las AUC, con sede en el municipio de Puerto Caicedo, Putumayo. Actualmente, José Antonio Jajoy se encuentra en la Oficina del Alto Comisionado para los Derechos Humanos terminando una pasantía bajo el programa que esta institución desarrolla con la Universidad de Deusto en España. Su vuelta a Colombia está prevista para finales del verano. José Antonio Jajoy ha continuado recibiendo amenazas en las que se le invitaría a no volver al país bajo peligro de muerte.

165. El 9 de agosto de 2004, 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 en relación con la situación de inseguridad, peligro e indefensión en la que se encuentran los indígenas de Colombia y en particular el **pueblo indígena Kankuamo de la Sierra Nevada de Santa Marta**. Según la información recibida, el 4 de agosto de 2004, el dirigente indígena **Fredy Arias Arias**, coordinador del programa de derechos humanos de la Organización Indígena Kankuama (OIK), fue asesinado cuando se dirigía en bicicleta desde la sede de la organización hacia su residencia en la ciudad de Valledupar. Según se informa, los autores de dicho crimen, dos personas que se movilizaban en una moto, habrían sido presuntos miembros de los paramilitares.

166. El 31 de agosto, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente en relación con la situación de inseguridad y peligro en la que se encuentra **Lilia Solano**, profesora de la universidad y directora de la organización no gubernamental de derechos humanos Proyecto Justicia y Vida. Según la información recibida, el 28 de julio de 2004, Lilia Solana habría llevado a cabo una protesta dentro de la cámara de debate del Congreso Nacional en Bogotá contra los posibles planes de conceder inmunidad procesal a los grupos paramilitares presuntamente respaldados por el Gobierno. Se informa que este mismo día el Gobierno habría invitado a tres dirigentes paramilitares quienes habrían estado presentes durante la protesta. Desde entonces, se alega que Lilia Solano habría recibido amenazas de muerte tanto en el teléfono de su casa como en su teléfono móvil. Además, se informa que las oficinas de Proyecto Justicia y Vida habrían estado sometidas a una vigilancia constante por desconocidos. Se teme que estas supuestas amenazas de muerte en contra de Lilia Solano puedan estar relacionadas con su trabajo de defensora de los derechos humanos, y en particular su oposición a la impunidad de los combatientes paramilitares en Colombia.

167. El 20 de septiembre de 2004, la Representante Especial envió una carta de alegación sobre actos de intimidación en contra de la doctora **Soraya Gutiérrez**, miembro de la Corporación Colectivo de Abogados José Alvear Restrepo. Según la información recibida, el 13 de febrero de 2003, mientras la Sra. Soraya Gutiérrez regresaba a casa en un vehículo blindado asignado al Colectivo de Abogados por el programa gubernamental de protección a defensores de derechos humanos, habría sido interceptado por otro vehículo que le habría obligado a detenerse. Se informa que varios hombres bajaron del vehículo llevando ametralladoras. La Sra. Soraya Gutiérrez habría logrado arrancar su vehículo y eludir la posible acción de los agresores. Se alega también que en los días antes de dicho suceso habría recibido llamadas telefónicas anónimas en las que no se contestaban o se escuchaban risas macabras. Se teme que estos actos de hostigamiento e intimidación en contra de la Sra. Soraya Gutiérrez puedan estar directamente relacionados con su trabajo de defensora de derechos humanos y constituir un claro intento de impedir el desarrollo de sus actividades.

168. El 23 de septiembre de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente sobre la situación de la periodista e investigadora de derechos humanos, **Claudia Julieta Duque**, quien estaría recibiendo amenazas de muerte desde agosto de 1999, cuando inició una investigación periodística sobre las posibles irregularidades en el proceso penal del homicidio del humorista y periodista, Jaime Garzón, en la que se señalaba al DAS como responsable de un montaje jurídico para acusar Juan Pablo Ortiz Agudelo y Ediberto Sierra Ayala por el homicidio del Sr. Garzón. Se informa que la Sra. Duque dio a conocer estos hechos ante la Dirección de Derechos Humanos de la Policía Nacional, quien realizó un estudio de riesgo que arrojó como resultado que había un peligro inminente de que las amenazas se hagan efectivas. De acuerdo con las informaciones recibidas, la periodista también denunció las amenazas ante la Fiscalía. La Fundación para la Libertad de Prensa solicitó, por medio de un derecho de petición, información sobre el estado de las investigaciones en el caso de la Sra. Duque. En oficio N° 6601, la Fiscalía respondió "que el despacho no encontró información al respecto", pese a que la Fundación para la Libertad de Prensa había incluido el número del proceso y la Fiscalía en el que se debería encontrar la investigación. Informes indican que la Sra. Duque ha recibido protección de la policía. Sin embargo, la Fiscalía no ha avanzado en las investigaciones y, por el contrario, le informó a la Fundación para la Libertad de Prensa que las denuncias que la Sra. Duque interpuso en sus despachos no existían.

169. El 19 de octubre de 2004, la Representante Especial, junto con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió una carta de alegación con respecto al caso de **Teresa Yarse**, líder de la asociación de Mujeres de las Independencias (AMI), organización que trabaja en favor de los derechos de la mujer y contra la pobreza en Medellín, Departamento de Antioquia. Habría fallecido el 6 de octubre de 2004 al recibir tres tiros cuando se encontraba en una cancha deportiva cerca de su casa. Se teme que la muerte de Teresa Yarse pueda estar directamente relacionado con su trabajo de defensora de derechos humanos en dicha comunidad, y en particular con su intento de reprimir confrontaciones armadas entre guerrilla y paramilitares. Se alega que la muerte puede ser atribuida a los paramilitares que controlan el barrio Comuna 13.

### **Comunicaciones recibidas**

170. Por carta de fecha de 30 de marzo de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 5 de febrero de 2004 acerca de la situación de **Inés Peña y miembros de la Comisión Internacional de las Brigadas de Paz y del Consejo Noruego de Refugiados**. La Procuraduría General de la Nación informó que una vez conocida la denuncia, se había dirigido al Comandante del Puesto Fluvial No. 31 de la Armada Nacional solicitándole aumentar los controles y retenes en el río Magdalena a fin de evitar la incursión de grupos armados ilegales, y así proteger la vida e integridad de las personas que diariamente trafican por el río. Respecto a la situación de Inés Peña, el Gobierno informó que el proceso se encuentra en la Fiscalía Quinta a fin de determinar la real existencia del hecho punible y sus presuntos responsables. Respecto a la situación de la Comitiva, se informó que hasta el momento no existían pruebas fehacientes sobre los hechos denunciados. Sin embargo las diligencias de Yolanda Becerra fueron asignadas a la Fiscalía Sexta. Se hizo entrega también a las coordinadoras de la Organización Femenina Popular de las normas de autoprotección que deben tenerse en cuenta para disminuir el grado de vulnerabilidad. La Fiscalía Quinta Seccional informó que las diligencias contra desconocidos, siendo ofendida Inés Peña, fueron enviadas el 21 de febrero 2004 a la oficina de asignaciones de la Unidad Especializada de Fiscalías de la ciudad de Bucaramanga, por entera razón de competencia funcional.

171. Por carta fechada el 28 de mayo de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 25 de febrero y el 12 de marzo de 2004. El Gobierno informó que la Fiscalía General, el Departamento Administrativo de Seguridad y la Policía Nacional habrían sido informados de las amenazas recibidas por los citados ciudadanos. Con respecto a **Jesús Alfonso Naranjo**, le habría otorgado un esquema de seguridad, en el que cuenta con dos escoltas, un apoyo de transporte terrestre por 192 horas mensuales y un medio de comunicación celular. Asimismo, y conforme con las recomendaciones del Comité de Reglamentación y Evaluación de Riesgo, las autoridades entregará tiquetes internacionales para él y su grupo familiar toda vez que acorde con la información suministrada. Con respecto a **Mario Nel Mora**, el esquema de seguridad con el que anteriormente contaba fue suspendido sin embargo, le habría asignado a otro esquema por la protección de los dirigentes nacionales mediante el cual contaría con medio de comunicación Avantel. En la actualidad, espera una reevaluación de su nivel de riesgo por la Policía Nacional, que podría otorgarle mecanismos adicionales. El 30 de marzo de 2004, el Ministerio del Interior y de Justicia precisa que el difunto no habría solicitado ninguna medida de protección de los organismos estatales.

172. Por carta fechada el 1º de julio de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 12 de febrero de 2004 relativa a las presuntas amenazas en contra de varios sindicalistas miembros de la **Asociación de Educadores de Arauca (ASEDAR)**, **Jaime Carrillo**, **Celedonio Jaimes Peñaloza** y su presidente **Francisco Rojas**. El Gobierno informó que la Fiscalía Tercera delegada ante los jueces del circuito de Arauca estaba investigando dichas amenazas, adelantando varias diligencias investigativas, entre ellas, declaraciones de los testigos. Además, la Oficina de Protección realizó una evaluación técnica del nivel de riesgos y amenazas de las personas antes mencionadas. La oficina les dio a conocer las recomendaciones que deben tener en cuenta para su seguridad personal. También se acordó en reuniones con la policía nacional que realizaría patrullajes por las residencias y lugares de trabajo de estos señores.

173. Por carta fechada el 1° de julio de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 15 de marzo de 2004 sobre la seguridad del representante legal de Luz Perly Cordoba, **Rodolfo Ríos Lozano**. El Gobierno confirmó el 1° de abril de 2004 que el abogado hará parte del Programa Especial de Protección Integral para dirigentes y miembros sobrevivientes de la Unión Patriótica y del Partido Comunista Colombiano, por el cual beneficiará de un vehículo corriente, dos escoltas, un celular, un radio Avantel y tiquetes nacionales para cuando lo solicitarían. Asimismo, el 18 de marzo de 2004, el Comité de Reglamentación y Evaluación de Riesgos habría autorizado el cambio de su vehículo corriente por un vehículo blindado. Con respecto a las amenazas dirigidas al abogado el 27 de abril de 2004, la Fiscalía ha iniciado un procedimiento investigativo de los hechos denunciados. El Gobierno seguirá atento al resultado de la investigación e informará oportunamente a la Representante Especial.

174. Por carta fechada el 1° de julio de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 30 de diciembre de 2003 con referencia a la seguridad de **David Raboso y Dorothea Timmer**. El Gobierno informó que una investigación de los hechos denunciados habría sido iniciada. Según el Gobierno, los citados ciudadanos en ningún momento habrían sido amenazados o agredidos, sino el víctima de tal hostigamiento fue el señor David Wilson, representante de la comunidad de San José con quién se desplazaban. Los miembros de la PBI habrían recibido recomendaciones de abstenerse de transportar dinero, o al mínimo, de designar una escolta policía. Según los funcionarios del DAS, los hechos denunciados por los miembros de la PBI no habrían sido confirmados por los residentes de la zona. Hasta la fecha, no existe resultado concluyente ni para identificar a las personas que agredieron a David Wilson ni para determinar las circunstancias de los hechos denunciados. La investigación se encuentra en etapa previa pero en cuanto recabe más información el Gobierno informará a la Representante Especial.

175. Por carta fechada el 1° de julio de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 11 de febrero de 2004 referente a las amenazas en contra de **Wilson David Higueta**, dirigente comunitario, y otros miembros de la Comunidad de Paz de San José de Apartadó. El Gobierno confirmó que mandó a las autoridades civiles, militares y de policía a tomar las medidas necesarias para garantizar la integridad física de dichas personas. Según la Defensoría del Pueblo, el 9 de febrero de 2004 habría recibido una denuncia suscrita por la Corporación Jurídica "Libertad". La Ministería de Defensa Nacional informó que recabará información con el propósito de investigar la veracidad de las amenazas y tomar las medidas necesarias para neutralizar acciones delictivas de las organizaciones armadas al margen de la ley.

176. Por carta fechada el 26 de julio de 2004, el Gobierno envió información adicional sobre la situación de **Jesús Alfonso Naranjo y Mario Nel Mora**. El Gobierno informó que hasta la fecha la investigación con referencia a las amenazas sufridas por el denunciante, Jesús Alfonso Naranjo, se encuentra en etapa preliminar y en práctica de pruebas. Con respecto al denunciante Mario Mora, el Gobierno aclaró que no habría sido víctima de las amenazas mencionadas, y por consecuencia, no habría sido incluido en la investigación.

177. Por carta fechada el 26 de julio de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 23 de abril de 2004 referente a **Ademir Luna**. Con

respecto a los actos de hostigamiento en contra de citado ciudadano durante los meses de febrero y marzo de 2004, el Gobierno informó que la policía habría recibido ninguna denuncia, y por consecuencia no habría sido posible iniciar una investigación. Asimismo, según el Gobierno, no existiría una amenaza directa que pondría en riesgo la vida del afectado o que impediría el desarrollo de sus labores como periodista. No obstante, el Gobierno declaró que habría reforzado todas las medidas de seguridad dispuestas.

178. Por carta fechada el 26 de julio de 2004, y siguiente una otra comunicación el 2 de junio de 2004 por la Representante Especial, el Gobierno envió información adicional sobre **Ademir Luna**. Según el Gobierno, una investigación del incidente del 29 de marzo de 2004 habría sido iniciada por la Fiscalía con el objeto de establecer los autores. Por el momento, el DAS le habría aconsejado aplicar las normas de autoprotección y de comunicar personas sospechosas que se acercasen a él como persona física o a su casa. En todo momento, contaría con el apoyo de patrullajes esporádicos que adelantarán los funcionarios del Puesto Operativo de Barrancabermeja. El Gobierno seguirá atento al resultado de la investigación e informará oportunamente a la Representante Especial.

179. Por carta fechada el 26 de julio de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 26 de abril de 2004 referente a la muerte de **Gabriel Remolina**, su esposa **Fanny Robles** y su hijo **Robinson Remolina**. El Gobierno informó que el 13 de mayo de 2004, la Fiscalía Quinta de la Ciudad de Bucaramanga habría iniciado una investigación de los hechos denunciados. El 26 de mayo de 2004, el Ministerio del Interior habría solicitado a la Fiscalía General de la Nación un estudio de la posibilidad de incluir a los hijos de los difuntos en el Programa de Víctimas de la Violencia de la Red de Solidaridad Social. El Gobierno notó que Efraín Guerrero, miembro de familia de los difuntos y presidente de una seccional del SINALTRAINAL, será beneficiario de un programa de protección, por el cual se le habría asignado un vehículo y dos escoltas. El Gobierno señaló que en cuanto tenga información adicional, informaría oportunamente a la Representante Especial.

180. Por carta fechada el 27 de julio de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 5 de abril de 2004 sobre la situación de **Gilberto Arlanht Ariza** y los dos estudiantes **Germán Acosta** y **Diego Sierra**. El Ministerio de Interior informó que el líder indígena Gilberto Arlanht Ariza es beneficiario de las siguientes medidas de protección, medios de comunicación y cuatro apoyos de reubicación temporal y dos pendientes. Además, la Vicepresidencia de la República remitió un informe de las gestiones adelantadas por el Gobierno con el fin de garantizar la protección de la comunidad indígena Kankuamo. Entre las medidas tomadas por el Gobierno figuran visitas al resguardo indígena Kankuamo, el establecimiento de un grupo de trabajo, la presencia permanente de un funcionario del Gobierno en la zona, quien trabajará en coordinación con el Defensor Comunitario, un Consejo de Seguridad, y la entrega de 4 teléfonos satelitales. Al Cabildo Gobernador se le aprobó un apoyo de transporte terrestre por 92 horas mensuales, un medio de comunicación Avantel, un teléfono celular y tiquetes aéreos nacionales. Con el fin de garantizar la vida e integridad de los miembros de la comunidad desplazados en la ciudad de Bogotá, las siguientes medidas han sido adoptadas; apoyo de reubicación temporal, apoyo de trasteo, apoyo colectivo de transporte, y medios de comunicación Avantel. Adicionalmente, el Ministerio del Interior y Justicia dispuso de tiquetes aéreos para trasladar a los líderes espirituales desde Valledupar a Bogotá. Con respecto a la situación de los dos estudiantes Germán Acosta y Diego Sierra, el comando del departamento

ordenó al Grupo de Policía Judicial adelantar las correspondientes labores investigativas tendiente a judicializar a las personas que están amedrentando a otros estudiantes. Además, recomendó a los estudiantes afectados instaurar las correspondientes denuncias penales ante la Fiscalía con el fin de consolidar bases jurídicas para la identificación y captura de los presuntos responsables. Adicionalmente, el Gobierno de Colombia seguirá atento al resultado de las investigaciones que se adelanten, respecto de lo cual informará oportunamente a la Representante Especial.

181. Por carta fechada el 27 de julio de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 27 de febrero de 2004 relativa a la situación de **Luz Perly Cordoba**. El Gobierno informó que en enero de 2004 se inició una investigación formal en relación con las actividades de Luz Perly Cordoba por los presuntos delitos de rebelión y concierto para delinquir que llevó a la liberación del orden de captura en contra de la acusada el 16 de febrero de 2004. En la actualidad, está detenida en la cárcel de mujeres del Buen Pastor de Bogotá. Por el momento, el proceso penal se encuentra en etapa de instrucción y en el período de recaudo de pruebas. El Gobierno insistió que en todo momento habría respetado las garantías procesales de la acusada con la plena observancia de sus derechos y de la ley colombiana.

182. Por carta fechada el 27 de julio de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 10 de marzo de 2004 referente a la situación de **Berenice Celeyta**. El Gobierno, por medio del Departamento Administrativo de Seguridad, informó que el 2 de abril de 2004, la afectada había sido declinado la oportunidad de asistir a una entrevista, por tratar temas relacionados con su seguridad, con el área de Protección del DAS Valle del Cauca. El Gobierno constató que seguiría atento a la aceptación y disponibilidad de la interesada. Respecto al hecho ocurrido en la sede de SINTRAEMCALI el 6 de febrero de 2004, el Gobierno confirmó que habría capturado un ciudadano, dentro del proceso adelantado por la Fiscalía Especializada, por el cual habría determinado la detención preventiva por los presuntos delitos de terrorismo y posesión ilegal de armas. El Gobierno informó también que habría reforzado la seguridad en las instalaciones y plantas de EMCALI. La Fiscalía informó que pese a que se había ordenado insistir en la comparecencia la interesada, para escucharla en ampliación de denuncia y como quiera que transcurrieron más de ciento ochenta días desde la iniciación de la etapa preliminar, sin haberse logrado la identificación e individualización de los presuntos responsables de la conducta punible, mediante resolución de octubre 30 de 2002, se habría ordenado la suspensión de las diligencias. Respecto a los nuevos hechos sucedidos los días 6 y 19 de febrero de 2004, el Gobierno insistió que sería necesario remitir la denuncia a la Dirección seccional de Fiscalías de Santiago de Cali, a fin de que sea asignado al fiscal que corresponda. El Gobierno de Colombia seguirá atento al resultado de las investigaciones que se adelanten, respecto de lo cual informará oportunamente a la Representante Especial.

183. Por carta fechada el 28 de julio de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 19 de marzo de 2004 sobre **Juan Carlos Celis González**. El Gobierno confirmó que el citado ciudadano habría sido capturado el 10 de diciembre de 2002, detenido sin beneficio de excarcelación el 20 de diciembre de 2004 y que en la actualidad se encuentra sujeto a una investigación penal. Según el Gobierno, se habrían encontrado elementos probatorios con respecto a actividades terroristas en el domicilio del acusado. Siguiendo las acusaciones, el Gobierno precisó que Juan Carlos Celis González nunca habría sido víctima de malos tratos. No obstante, habría iniciado una investigación de los

presuntos atropellos que se encuentra en etapa preliminar y en práctica de pruebas. El Gobierno comprometió que en cuanto tenga más información, se lo haría del conocimiento de la Representante Especial.

184. Por carta fechada el 20 de agosto de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 9 de agosto de 2004 acerca de la muerte de **Fredy Arias Arias**. El Gobierno informó que el 3 de agosto de 2004, el día de la muerte, habría convocado un Consejo de Seguridad Departamental, en el cual habría decidido de investigar la muerte por medio de un equipo interinstitucional con el objeto de fortalecer las condiciones de seguridad de la organización indígena de Kankuama. Además, a dicha reunión un ofrecimiento de recompensa por US\$15,000,000 fue determinado a quien pudiera brindar más información sobre los hechos ocurridos. Asimismo, el Gobierno habría incrementado los patrullajes sobre el sector de la casa indígena y de la residencia del Gobernador, Jaime Arias Arias, y le habría asignado dos escoltas. Además, el 4 de agosto de 2004, habría organizado una reunión con los líderes Kankuamo, las autoridades departamentales y organismos de seguridad, con el propósito de ofrecerles medidas de seguridad y autoprotección. El Gobierno seguirá atento al resultado de la investigación e informará oportunamente a la Representante Especial.

185. Por carta fechada el 21 de septiembre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 17 de mayo de 2004 en referencia a la muerte de **Carlos Bernal**. El Gobierno precisó que el difunto habría recibido medidas cautelares por parte del Programa Especial de Protección para dirigentes, miembros y sobrevivientes de la Unión Patriótica y del Partido Comunista Colombiano, entre ellos un esquema individual, medios de comunicación y tiquetes aéreos nacionales. Por el momento, el progreso incluye dismantelar un centro de acopio de material de guerra empleado por las AUC para llevar a cabo los homicidios. El Gobierno seguirá atento al resultado de las investigaciones de los hechos denunciados e informará oportunamente a la Representante Especial.

186. Por carta fechada el 7 de octubre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 21 de junio de 2004 relativa a **Mauricio Avilez Álvarez**. El 9 de junio de 2004, la Fiscalía habría ordenado la vinculación al proceso del citado ciudadano por existir serias imputaciones en su contra como presunto responsable de los hechos ocurridos el 16 de diciembre de 2003 en la ciudad de Barranquilla. Asimismo, el 10 de junio de 2004 se habría proferido un orden de captura y le habría impuesto medida de aseguramiento en orden de detención preventiva por provisionales conductas punibles de concierto para delinquir, homicidio y tentativa de homicidio con fines terroristas, en concurso con rebelión. La fiscal de conocimiento expresó que la investigación está de curso probatorio y en cumplimiento de los principios fundamentales.

187. Por carta fechada el 8 de diciembre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 21 de junio de 2004 referente al caso de **Mauricio Avilez Álvarez**. El Gobierno declaró que el Procurador Región del Atlántico estaría vigilante de la situación en general, y junto con el Procurador Judicial Penal, del proceso en particular. La Fiscalía informó que mediante resolución del 20 de octubre de 2003, se habría dispuesto a revocar la resolución mediante la cual se habría impulsado la medida de aseguramiento de Mauricio Avilez Alvarez, y como consecuencia, ordenaría su libertad inmediata.

188. Por carta fechada el 24 de enero de 2005 el Gobierno contestó nuevamente a la comunicación transmitida por la Representante Especial el 21 de junio de 2004 acerca de la situación de **Mauricio Avilez Álvarez**. El Gobierno informó que el Ministerio del Interior y de Justicia había solicitado al DAS la realización de un estudio técnico de nivel de riesgo y grado de amenaza para determinar el grado de vulnerabilidad en que se encuentra Mauricio Avilez Álvarez. Así mismo, se solicitó a la Policía Nacional adoptar las medidas de seguridad pertinentes para salvaguardar la vida e integridad del mismo. Adicionalmente, el Gobierno de Colombia seguirá atento al resultado de las investigaciones que se adelanten, respecto de lo cual informará oportunamente a la Representante Especial.

189. Por cartas de fechas 7 de octubre y 7 de diciembre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 6 de agosto de 2004 con información relativa a los líderes indígenas de **la Organización Zonal Indígena del Putumayo (OZIP)**. Según la Policía Nacional, habría practicado, en forma individual, un estudio técnico de nivel de riesgo y grado de amenazas al presidente y al secretario general, Hermes Meliton Narváez y Luis Alejandro López Agreda. Tras este análisis, les habría dado a conocer las medidas básicas de seguridad personal y familiar, impulsándoles a observar estas medidas en todo momento. El 9 de junio de 2004, el Defensor del Pueblo habría solicitado al departamento de policía del Putumayo medidas de protección por miembros de dicha organización. En la actualidad, la sede de la OZIP y las residencias de los directivos disponen de un servicio de vigilancia mediante patrullajes y revistas constantes. El Gobierno seguirá atento al caso. Respecto a la situación del tesorero, Antonio Jajoy Pay, el Gobierno informó que desde el 15 de abril de 2004 permanecerá en Madrid para seis meses.

190. Por cartas de fechas 12 de octubre y 7 de diciembre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 28 de julio de 2004 con información en torno a la muerte de **Carmen Elisa Nova Hernández**. El Gobierno precisó que la difunta nunca habría solicitado ni beneficiado de medidas de protección. Según el Gobierno, SINTRACLINICAS, Bucaramanga, habría solicitado protección para Teresa Báez Rodríguez, presidente y Edith Elena Rey, anterior fiscal. La Sra. Báez Rodríguez habría beneficiado de un esquema de protección colectivo en la ciudad de Bucaramanga y tiquetes nacionales. En la actualidad, el Gobierno confirmó que la Fiscalía habría sido informado de la muerte de Carmen Elisa Nova Hernández para poder adelantar las investigaciones pertinentes. Además, se habría solicitado al DAS de realizar de manera urgente un estudio técnico del nivel de riesgo a los demás directivos de SINTRACLINICAS, Bucaramanga, con el fin de presentar el caso a consideración del Comité de Reglamentación y Evaluación de Riesgos. Asimismo, como medida preventiva, habría solicitado la colaboración de la policía nacional en la coordinación de rondas para los mencionados dirigentes. El Gobierno señaló que en cuanto tenga más información se lo haría del conocimiento de la Representante Especial.

191. Por cartas de 19 de octubre y 7 de diciembre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 28 de mayo de 2004 sobre la situación de **Carlos Alberto Hurtado Aramburu**. Según el Gobierno, la Fiscalía General habría abierto una investigación de los hechos denunciados, la cual se encontraría en etapa previa y en práctica de pruebas, y los resultados de la cual serán reemitidos a la mayor brevedad posible.

192. Por carta fechada el 8 de diciembre de 2004, el Gobierno contestó a otra comunicación transmitida por la Representante Especial el 5 de julio de 2004 en relación con la situación de **Luz Perly Córdoba**. El Gobierno transmitió un informe de la Vicepresidencia de la República en el cual comunicó que la Fiscalía General, después de escuchar a la Sra. Córdoba en diligencia de indagatoria, decretó en contra de ella imponiendo una medida de aseguramiento sin beneficio de excarcelación por el delito de rebelión. Informó que la investigada contó con todas las oportunidades legales y constitucionales y que se le habría designado un defensor de oficio tras la renuncia voluntaria de sus abogados defensores. El Gobierno dio a conocer que el 13 de agosto de 2004 se calificó el merito de la investigación y se profirió resolución de acusación contra la sindicada por los delitos de concierto para delinquir con fines de narcotráfico y rebelión. La decisión quedó ejecutoriada y la causa fue remitida al Juzgado de Penal del Circuito Especializado de Arauca para iniciar la etapa de juicio. Se habría fijado el 5 de enero de 2005 como fecha para la audiencia preparatoria.

193. Por carta fechada el 8 de diciembre de 2004, el Gobierno envió información adicional relativa a la muerte de **Carmen Elisa Nova Hernández**. El 27 de septiembre de 2004, la Fiscalía reiteró que la Unidad Nacional de Derechos Humanos y Derecho Internacional Humanitario a Bucaramanga habría abierto una investigación sobre el supuesto asesinato de la difunta. Por el momento, la investigación se encuentra en etapa previa y en práctica de pruebas. La Procuraduría conducirá también una investigación con respecto a las amenazas y peligros de los miembros del sindicato SINTRACLINICAS.

194. Por carta fechada el 8 de diciembre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 20 de septiembre de 2004 con referencia a la situación de la Dra. **Soraya Gutiérrez**. Según el Gobierno, y conforme con la información enviada por el DAS el 18 de noviembre de 2004, la reevaluación del servicio de seguridad de la citada ciudadana no se habría llevado a cabo porque no se habría contado con el consentimiento de la interesada.

195. Por carta fechada el 8 de diciembre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 9 de marzo de 2004 relativo a las presuntas amenazas a **Emilce Marroquin, Myriam Perez y Richard Alarcon**. El Gobierno realizó la necesidad de investigar los hechos denunciados. Tras una reunión de seis organizaciones no gubernamentales, incluyendo la Corporación Casa de la Mujer, con funcionarios del Programa Presidencial de Derechos Humanos, los siguientes compromisos se habrían estado realizados. Habría decidido de formar enlaces entre ciertos comandos de policía y las sedes de las organizaciones de riesgo de amenazas por mejorar el contacto.

196. Por carta fechada el 8 de diciembre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 31 de agosto de 2004 acerca de la situación de **Lilia Solano**. El Gobierno informó que una investigación habría sido iniciada de oficio por la Fiscalía el 28 de septiembre de 2004, la cual se encuentra en etapa previa. Tras un estudio técnico de nivel de riesgo y grado de amenaza, las autoridades habrían apuntado MEDIO, en consecuencia del cual, la interesada habría recibido un Avantel. En la actualidad, realizaría un estudio técnico de seguridad a su residencia.

197. Por carta fechada el 8 de diciembre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 23 de septiembre de 2004 respecto a la seguridad de **Claudia Julieta Duque**. El Gobierno informó que habría presentado su caso ante el Comité de Reglamentación y Evaluación de Riesgos y el Programa de Protección a Periodistas y Comunicadores Sociales el 15 de octubre de 2004. La reunión habría recomendado que la citada ciudadana y su hija reciban dos tiquetes aéreos internacionales, un vehículo blindado y un escolta conductor. La solicitud por la asistencia económica habría sido negada. El Programa de Protección a Periodistas y Comunicadores Sociales por su parte desde diciembre de 2003 le habría asignado un Avantel, un esquema de seguridad, lo anterior que no habría sido aceptada por la amenazada, y en el ínterin, un apoyo de transporte por 90 horas mensuales y un blindaje arquitectónico del departamento. El Programa continuará solicitando a la Fiscalía y al Departamento Administrativo de Seguridad información sobre los avances en las denuncias presentadas.

198. Por carta fechada el 24 de enero de 2005, el Gobierno contestó nuevamente a la comunicación transmitida por la Representante Especial el 23 de septiembre de 2004 acerca de la situación de **Claudia Julieta Duque**. El Ministerio del Interior y de Justicia informó que mediante Acta No. 9 de emergencia del CRER, el pasado 24 de noviembre se había recomendado la aprobación de manera excepcional, un apoyo de reubicación temporal por valor de dos millones de pesos m/cte. (\$2.000.000), para el pago de un mes de arriendo de la periodista, debido a las últimas amenazas recibidas en contra de su vida y la de su hija. Así mismo, la Procuraduría Delegada para la Prevención en materia de Derechos Humanos y Asuntos Étnicos informó que revisado el sistema sobre investigaciones disciplinarias se encontró que el caso está radicado con el No. 9-113208/04 por presunta responsabilidad por amenazas, seguimientos y retención en contra de la Sra. Claudia Julieta Duque y se encuentra en estudio preliminar de la queja. Adicionalmente, el Gobierno de Colombia seguirá atento al resultado de las investigaciones que se adelanten, respecto de lo cual informará oportunamente a la Representante Especial.

199. Por carta fechada el 8 de diciembre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 21 de junio de 2004 referente al caso de **Mauricio Avilez Alvarez**. El Gobierno declaró que el Procurador de la Región del Atlántico estaría vigilante de la situación en general, y junto con el Procurador Judicial Penal, del proceso en particular. La Fiscalía informó que mediante resolución del 20 de octubre de 2003, se habría dispuesto a revocar la resolución mediante la cual se habría impulsado la medida de aseguramiento de Mauricio Avilez Alvarez, y como consecuencia, ordenaría su libertad inmediata.

200. Por carta fechada el 24 de enero de 2005 el Gobierno contestó nuevamente a la comunicación transmitida por la Representante Especial el 21 de junio de 2004 acerca de la situación de **Mauricio Avilez Álvarez**. El gobierno informó que el Ministerio del Interior y de Justicia había solicitado al DAS la realización de un estudio técnico de nivel de riesgo y grado de amenaza para determinar el grado de vulnerabilidad en que se encuentra Mauricio Avilez Álvarez. Así mismo, se solicitó a la policía nacional adoptar las medidas de seguridad pertinentes para salvaguardar la vida e integridad del mismo. Adicionalmente, el Gobierno de Colombia seguirá atento al resultado de las investigaciones que se adelanten, respecto de lo cual informará oportunamente a la Representante Especial.

### **Seguimiento de comunicaciones transmitidas previamente**

201. Por carta fechada el 28 de mayo de 2004, el Gobierno contestó a la comunicación transmitida el 11 de agosto de 2003 y el 20 de noviembre de 2003 por la Representante Especial con respecto a la situación de **Wilson David Higuita y los miembros de la Comunidad de Paz de San José de Apartadó**. La Defensoría del pueblo informó que asesoró la instauración de una acción de tutela contra el comandante de la XVII Brigada del ejército nacional e intervino como coayuvante entorno al caso de Wilson David Higuita. El 17 de octubre de 2003, la Fiscalía informó que en la Fiscalía Novena especializada de Medellín, Antioquia, se adelanta la investigación, donde figuran como ofendidos el Sr.Higuita y otros miembros de la comunidad de Paz, por hechos ocurridos en febrero de 2003.

202. Por carta fechada el 29 de mayo de 2004 el Gobierno contestó a la comunicación transmitida por la Representante Especial el 3 de diciembre de 2003. El Gobierno informó que reconoció la petición recibida del Colectivo de Abogados José Alvear Restrepo con respecto a las amenazas dirigidas a su compañera de trabajo **Adriana Cuellar** e informó que las autoridades encargadas de la seguridad pública habrían efectuado una investigación. Según el Gobierno, un estudio técnico de seguridad, incluyendo el nivel y grado de amenaza, por el DAS habría sido un requisito para acceder al Programa de Protección a Periodistas. El Colectivo habría contestado que un estudio no se requería por parte de la policía nacional, y no habría dado consentimiento al DAS. Sin embargo, el Gobierno seguirá los investigaciones y remitirá los resultados a la Representante Especial.

### **Observaciones**

203. In 2004, following an agreement with the Government of Colombia, the Special Representative conducted a two-day follow-up visit to her country visit to Colombia in 2001 (E/CN.4/2002/106/Add.2) to assess the of the situation of human rights defenders in the country. She thanks the Government for its cooperation in arranging this follow-up visit and making itself available for meetings. While in Bogotá, the Special Representative had the opportunity to meet with the Vice-President, representatives of the military, the Prosecutor's Office and the Foreign Ministry. She also thanks the Attorney General's Office and representatives of the Constitutional Court for having met with her. She also met with a wide spectrum of civil society representatives, including many organizations that she had met with in 2001.

204. Since the Special Representative's visit to Colombia in 2001, a number of significant developments have taken place. For general developments, see also the report of the High Commissioner on the situation in Colombia (E/CN.4/2005/10). On 21 February 2002, peace talks between the Government of Colombia and FARC broke down, combat between the security forces and illegal armed groups intensified, and there was a subsequent increase in violence throughout the country. On 7 August 2002, a new Government came to power under President Álvaro Uribe.

205. On 11 August 2002, a state of emergency was declared under Decree No. 1837, allowing restrictions including on freedom of expression, movement and assembly. On 29 April 2003, the Constitutional Court ruled against a renewal of the state of emergency, declaring it incompatible

with the Constitution of 1991. Subsequently, the Government sought to amend the Constitution under a bill known as the “Anti-Terrorist Statute” adopted in December 2003, which inter alia restored judicial powers to armed forces. The Special Representative expresses her concern that this legislation, which contradicts recommendations made by United Nations human rights bodies, and adversely affects the ability of human rights defenders to carry out their work. On 30 August 2004, the Colombian Constitutional Court, with a majority 5 to 4 decision, rejected Legislative Act 02 of 2003 (Anti-Terrorist Statute) because of procedural errors.

206. The Government also adopted the Democratic Security Policy, aimed at combating terrorism, regaining control of the national territory and strengthening democratic institutions. While some aspects of this policy have been welcomed, concern has been voiced that many other aspects adversely impact human rights and the rule of law, including the recruitment of a network of paid informer, in an attempt to involve civilians in maintaining security, which has led to a climate of distrust among the population. It is reported that in some regions, people have grown reluctant to denounce human rights abuses for fear of reprisals. Consequently, human rights organizations have faced increasing difficulty to monitor and report on the human rights situation. This policy has also resulted in blurring the distinction between civilians and combatants, thus further exposing civilians, in particular human right defenders, to unacceptable levels of risk.

207. Since her mission to Colombia, the Special Representative has continued to receive information on grave human rights violations committed against human rights defenders. In 2002, she sent 17 communications to the Government of Colombia regarding 34 cases of alleged violations against human rights defenders, including 14 killings. In 2003, 12 communications were sent and in 2004, 31 communications were sent regarding 11 killings of human rights defenders, death threats and detentions. The majority of these attacks were reportedly perpetrated by paramilitaries. While official figures indicate a decrease in indicators of violence, including homicide by 22 per cent, massacres by 33 per cent, kidnappings by 26 per cent and forced displacement by 52 per cent, politically motivated or selective killings, arbitrary detentions and torture while in detention and enforced disappearances are on the rise. In view of this information, the Special Representative is gravely concerned that the situation of human rights defenders in Colombia remains critical and has recently degraded in some areas.

208. The Special Representative thanks the Government for its detailed responses and welcomes its cooperation with her mandate. She welcomes the willingness of the authorities to investigate reported violations. Nevertheless, in the majority of instances, cases are still pending and only few investigations have resulted in the indictment of the perpetrators or in their sentencing. As a result, acts against human rights defenders continue to be committed with impunity and actions taken by the Government have not had the expected impact.

209. Government policies have resulted in new challenges for human rights defenders. It is reported that the policies of mass arrests and large-scale raids under the state of emergency and Anti-Terrorist Statute have led to the arrest of NGO members as well raids on NGO offices. These practices have adversely affected human rights defenders’ ability to carry out their work. Many reported having to limit their activities and felt they had to restrain their freedom of expression in the interest of their safety.

210. During her follow-up visit, the Special Representative sought to assess the implementation of her recommendations. She notes that while some positive steps have been taken, the environment for the security of defenders has deteriorated, which has seriously hampered their ability to carry out their human rights activities. Despite positive developments, recommendations appear not to have been consistently integrated in Government policies. As a result, they have not had the awaited impact on the situation of human rights defenders. Concerns were expressed that the Government attributed insufficient priority to human rights and international humanitarian law and that projects for constitutional reforms and new laws introduced by the Government in the course of 2003 may be incompatible with international norms. In particular, proposals to reduce the power of the Constitutional Court and the Prosecutor General's Office raised concerns amongst defenders.

211. According to reports, the level of impunity for human rights violations continues to be very high. Recently, a unit to fight against impunity was established as part of the human rights and international humanitarian law Presidential Programme within the Office of the Vice-President. The Government has committed itself to follow up on investigations into serious human rights violations through the work of a special committee and the design and implementation of a public policy to fight impunity. However, defenders indicated that to date, the committee has not produced significant results or made any effective progress in its investigations. There continues to be a decrease in investigations and prosecutions of human rights violations by the military and a dismissal of cases of collusion with paramilitaries brought against high-ranking military officials. The issuing of Decree No. 128 fails to meet international standards and risks perpetuating a climate particularly detrimental to human rights defenders.

212. On 15 July 2003, an agreement was signed between the Government and the United Self-Defense Forces of Colombia (AUC) which stipulated their complete demobilization by 2005, a ceasefire and a halt to kidnappings. In May 2004, paramilitaries involved in peace talks with the Government agreed to remain in a designated "safe zone" within which they would be immune from arrest or extradition. Despite these negotiations and the group's self-declared ceasefire, paramilitary groups have continued to perpetrate grave human rights violations including massacres, selective homicides and disappearances. As a result, despite positive actions taken by the Government, human rights defenders have continued to face serious threats from these groups. Nearly half of the communications sent in 2004 concerned reports of violations committed by paramilitaries. While the President in his speeches has indicated that there is a need to return to the rule of law, decisive action to dismantle ties between the paramilitaries and public servants has not yet been undertaken. Further efforts are still required from the Government to significantly address this issue in order to make the situation of human rights defenders safer.

213. The Special Representative welcomes the fact that a dialogue between the Government and human rights organizations continues to take place. In this respect, a decentralization project for human rights and international humanitarian law has been established in 16 departments under the direction of the Ministry of the Interior and the Presidential Human Rights programme. However, despite several positive initiatives by the Government, relations between the Government and NGOs continue to be characterized by mutual distrust.

214. Meetings to adopt measures for the protection of trade unionists were also organized by the Vice-President and the Minister for Social Protection with the participation of union leaders and regional leaders. Despite these initiatives, the situation of trade unionists continues to be of grave concern. In the first 8 months of 2004, the Special Representative received information on the killing of four family members of a prominent trade unionist, one member of health workers union and a trade unionist of SINTRACLINICAS.

215. Despite the ratification in July 2003 of the Presidential Directive 07 which instructs public servants to respect human rights defenders and the work of their organizations, public attacks against the credibility of defenders have continued. Governmental authorities have publicly questioned the legitimacy of human rights organizations, including international NGOs, accusing them of being at the service of terrorism. The Special Representative expresses her gravest concern at the increase in public statements stigmatizing human rights defenders as "enemies". Given the deterioration in the security situation of defenders, such statements increase the risk of attacks by paramilitaries and arrests and raids by national security forces.

216. The Special Representative welcomes the expansion of the protection programme within the Ministry of the Interior which benefited from an increase in budget in 2003 and covered 8,840 individuals including NGO members, union leaders and journalists. Despite these positive developments, the programme has not had the awaited impact on the safety of human rights defenders. Difficulties in administering the risk assessment process and lack a consistent policy on the part of the State have reportedly delayed its implementation. Defenders have expressed a lack of confidence in the programme and refused to take advantage of it. Many fear that the programme could be used to gather further intelligence on them, as those designated for their protection are part of the groups reported to perpetrate the abuses. Cases sent by the Special Representative in 2004 illustrate the programme's limitations, as at least two beneficiaries were killed, another arrested and yet another received death threat on the cell phone provided to him by the programme. There is a consensus that the situation of human rights defenders can only improve with a change in attitude for authorities. As long as senior Government officials continue to stigmatize defenders as adversaries, no protection programme, regardless of how well funded, can successfully ensure their safety.

## **Costa Rica**

### **Comunicaciones enviadas**

217. El 3 de agosto de 2004, la Representante Especial envió una carta de alegación. El 3 de julio 2004, a las 6.25 de la tarde, el personal de Casa Alianza en la ciudad de San José, Costa Rica, habría recibido una amenaza de bomba dejada supuestamente por un desconocido en el contestador telefónico de la organización. Durante el mismo día, el equipo del Programa de Apoyo Legal de Casa Alianza se habría trasladado a la Comunidad de Orotina donde habrían entrevistado a algunos de las presuntas víctimas de un prófugo sacerdote, quien según las informaciones recibidas habría sido acusado en 1998 en la Fiscalía Adjunta de San Carlos de abusos deshonestos cometidos contra personas menores de edad en la región. Sin embargo, el sacerdote habría huido del país dos días después de ser acusado. Según se informa, poco tiempo después de salir de la ciudad de Orotina se habría dejado la amenaza telefónica en la que se refería a una bomba y la exigencia de parar de buscar al sacerdote. Se teme que esta supuesta

amenaza de bomba efectuada contra el personal de Casa Alianza pueda estar relacionada con su trabajo como defensores de los derechos humanos y en particular su trabajo como defensores de los derechos humanos de las personas menores de edad.

### **Comunicaciones recibidas**

218. Por carta fechada el 1º de septiembre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 3 de agosto de 2004 sobre las amenazas recibidas por la organización **Casa Alianza**. El Gobierno confirmó que una denuncia habría sido presentada, y por consecuencia una investigación iniciada, mediante la cual habría establecido que la llamada provenía de un teléfono público. Las autoridades habrían entrevistado a varias personas que trabajan cerca de dicha cabina telefónica con el fin de recabar más información, pero informó que ya no se habría llegado a ningún resultado concreto para identificar al autor del hecho.

### **Observaciones**

219. The Special Representative thanks the Government for its comprehensive response. She acknowledges the steps taken by the Government to identify the perpetrators and the investigation carried out.

## **Côte d'Ivoire**

### **Communications envoyées**

220. Le 2 juin 2004, la 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 les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé un appel urgent concernant des rapports selon lesquels **Amourlaye Touré** et **Mamadou Fofana**, tous deux membres du Mouvement ivoirien pour les droits de l'homme (MIDH), seraient soumis à des actes d'intimidation et à des menaces de mort. Selon les informations reçues, Amourlaye Touré, président par intérim du MIDH, aurait récemment reçu des menaces de mort alors qu'il se trouvait à Genève, où il participait à des réunions organisées dans le cadre de la session annuelle de la Commission des droits de l'homme des Nations Unies. Mamadou Fofana serait quant à lui entré dans la clandestinité après avoir été la cible d'actes d'intimidation les 25 et 26 avril, lorsqu'un groupe de civils se serait présenté à son domicile en l'accusant de « vendre la Côte d'Ivoire aux étrangers ». Selon les informations reçues, ces menaces et intimidations pourraient être liées à la publication par le MIDH, le 28 avril 2004, d'un rapport sur des violations des droits humains commises à Abidjan à la suite d'un défilé organisé le 25 mars, au cours duquel les forces de sécurité auraient recouru à une force excessive pour disperser les manifestants pacifiques et non armés.

221. Le 19 novembre 2004, la Représentante spéciale a envoyé une lettre d'allégation concernant Madame **Olga Nana Mianda Mwanza**, citoyenne congolaise résidant en Côte d'Ivoire et membre du secrétariat de la Commission d'enquête internationale des Nations Unies sur les violations des droits de l'homme en Côte d'Ivoire du 15 juillet au 15 septembre 2004. Selon les informations reçues, en raison de son service auprès de la Commission, elle aurait été

attaquée, molestée et menacée avec sa famille par des Jeunes patriotes au cours des événements du 6 au 11 novembre 2004 à Abidjan. Sa résidence aurait été saccagée et elle aurait perdu tous ses biens. Elle aurait trouvé refuge avec sa mère, son frère et ses deux enfants tout d'abord auprès de l'ONUCI et de l'armée française, avant d'être évacuée vers Accra (Ghana), le 15 novembre 2004.

### **Communications reçues**

222. Par lettre en date du 29 décembre 2004, le Gouvernement a répondu à l'appel urgent en date du 2 juin 2004. Il a indiqué que les faits s'inscrivent dans le contexte des événements de novembre 2004 au cours desquels de nombreuses violations des droits de l'homme ont été commises. Le Gouvernement a indiqué que des enquêtes ont été ouvertes pour faire la lumière sur ces faits. Dans sa réponse, le Gouvernement a mis en cause la responsabilité de la France quant à l'inaboutissement de ces enquêtes. Quant aux faits, le Gouvernement a noté qu'il était hasardeux d'imputer ceux-ci aux « jeunes patriotes », qu'il a dit être des « résistants » à la tentative d'occupation d'Abidjan par les militaires français de l'opération Licorne. Le Gouvernement a souligné qu'il considérait les patriotes comme des défenseurs des droits de l'homme luttant pour défendre leur droit à l'autodétermination inscrit dans la Charte des Nations Unies. Le Gouvernement a souligné que la Côte d'Ivoire subissait depuis 2002 une agression armée, condamnée par la communauté internationale et africaine. Dans sa réponse, le Gouvernement a mis en cause également la responsabilité de la France dans les événements survenus en novembre 2004. Notamment, il a expliqué qu'après la destruction des avions de la base de Yamoussoukro, et croyant à un coup d'Etat, des milliers de citoyens ivoiriens étaient sortis pour protester et défendre la légalité constitutionnelle par des moyens pacifiques selon les articles 29 et 5 de la Charte africaine. Le Gouvernement a également mis en cause la responsabilité des forces françaises dans une série de violations des droits de l'homme.

### **Observations**

223. The Special Representative thanks the Government for its response in the case of **Olga Nana Mianda Mwanza**. While she acknowledges the Government's information with regard to the context in which the violation alleged in the communication took place, she notes that the response does not provide any information with regard to the specifics of the case raised in her communication. She regrets the absence of response to her other communication. She remains concerned about the safety of human rights defenders in Côte d'Ivoire.

## **Cuba**

### **Comunicaciones enviadas**

224. El 22 de septiembre de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió una carta de alegación con respecto al periodista **Carlos Brizuela Yera**, de la agencia de prensa independiente Colegio de Periodistas Independientes de Camagüey, que habría sido condenado el 26 de abril de 2004 por el tribunal provincial popular de Ciego de Ávila a tres años de cárcel por “desacato”, “desorden público”, “resistencia a la autoridad” y “desobediencia”. El Sr. Brizuela Yera habría sido juzgado junto con otras nueve personas por manifestar, el 4 de marzo de 2002, delante del hospital en que

se encontraba ingresado Jesús Álvarez Castillo, al que la policía habría golpeado. Entre las otras personas figuraría Lester Téllez Castro, director de la agencia independiente Agencia de Prensa Vileza, en el momento de los hechos y condenado a tres años y medio de prisión. Los otros ocho acusados serían miembros de la organización local de defensa de los derechos humanos Fundación Cubana de Derechos Humanos (FCDH) y habrían sido condenados a penas que van de tres años de residencia vigilada a siete años de prisión incondicional. Estas personas son Lázaro Iglesias Estrada, Enrique García Morejón. Antonio Marcelino García Morejón, Delio Laureano Requejo Rodríguez, Virgilio Mantilla Arango, Odalmis Hernández Márquez, Ana Peláez García y Juan Carlos González Leyva, abogado invidente y presidente de la FCDH.

### **Seguimiento de comunicaciones transmitidas previamente**

225. Por carta fechada el 25 de octubre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 28 de noviembre de 2003 con respecto a la situación de **Oscar Espinosa Chepe**. El Gobierno negó los hechos resumidos en la carta y señaló que el citado ciudadano habría contado sin excepción con toda la atención y tratamientos médicos necesarios y con el derecho a varias visitas familiares.

### **Observaciones**

226. The Special Representative would like to thank the Government for its response and looks forward to receiving responses to her other communications. The Special Representative welcomes the reported release of a number of long-term detainees, including Oscar Espinosa Chepe, Raul Rivero, Marcelo Manuel Lopez Banobre, Osvaldo Alfonso, Edel Jose Garcia Diaz and Margarito Broche Espinosa. Nevertheless, she remains concerned by the ongoing detention and heavy sentencing of numerous human rights defenders in Cuba.

## **Democratic Republic of Congo**

### **Communications envoyées**

227. Le 21 avril 2004, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire, le Rapporteur spécial sur la torture et la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé un appel urgent concernant la situation de **Dieudonné Been Masudi Kingombe**, directeur du Centre des droits de l'homme et du droit humanitaire (CDH), une association de défense des droits de l'homme basée à Lubumbashi, **Grégoire Mulamba Tschisabamka**, secrétaire général de la CDH et M<sup>c</sup> Freddy Kitoko, vice-président de l'ASADHO/Katanga (Association africaine de défense des droits de l'homme/Katanga). Selon les informations reçues, M. Dieudonné Been Masudi Kingombe aurait été arrêté le samedi 10 avril 2004 à 18 heures, à Lubumbashi, par des officiers de l'Agence nationale de renseignements (ANR). Il aurait été transféré à la direction provinciale de l'ANR où il aurait été frappé violemment au corps et à la tête, et un agent de l'ANR aurait tenté de lui arracher l'oreille par morsure. M. Been Masudi aurait été libéré deux heures plus tard dans un état de santé précaire. Le motif de son arrestation ne lui aurait pas été communiqué. Grégoire Mulamba Tschisabamka et M<sup>c</sup> Freddy Kitoko auraient quant à eux été arrêtés le 15 avril 2004 par des agents de l'ANR, semble-t-il sur ordre du directeur provincial de

l'ANR, dont le nom est connu des Rapporteurs spéciaux et de la Représentante spéciale. Aucune information n'a été reçue sur le lieu de détention de ces personnes ni sur les éventuelles accusations portées contre elles. Il semblerait de plus que l'ANR détiendrait une liste sur laquelle figureraient 10 noms de personnes à arrêter, dont certains sont connus des Rapporteurs spéciaux et de la Représentante spéciale, tous membres d'associations de défense des droits de l'homme. Ces arrestations seraient intervenues après la parution, le 6 avril 2004, d'un communiqué de presse du CDH dénonçant la situation d'insécurité des ressortissants de la province de l'Equateur vivant au Katanga. Selon les informations reçues, le 8 avril 2004, l'Observatoire national des droits de l'homme aurait contacté par téléphone les membres du CDH et les aurait informés du « mécontentement » du gouverneur du Katanga, à la suite de la publication de ce communiqué. Depuis le 10 avril 2004, le secrétaire général du CDH, M. Grégoire Mulamba Tshisakamba, aurait reçu plusieurs fois par jour des appels anonymes le menaçant de mort. Des craintes ont été exprimées que cette arrestation ne soit en relation avec le travail de défense des droits de l'homme des personnes susmentionnées.

228. Le 27 avril 2004, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo, a envoyé un appel urgent concernant **Faustin Bella Mako**, correspondant pour la province du Katanga de l'organisation non gouvernementale Journalistes en danger (JED), organisation de formation et de défense des droits des journalistes, et directeur de l'hebdomadaire « Congo News », paraissant à Lubumbashi, chef-lieu de la province du Katanga, qui aurait été interpellé le 20 avril 2004 vers 11 heures à l'aéroport international de Lubumbashi-Luano par des agents de l'Agence nationale de renseignements (ANR). Il semblerait que M. Mako ait été arrêté au moment où il s'apprêtait à embarquer à bord d'un vol régulier de la Compagnie africaine d'aviation (CAA) en partance pour Kinshasa. Il serait gardé en détention dans les cachots de l'Agence nationale des renseignements (ANR) dans la commune de Lubumbashi. Bella Mako était, semble-t-il, attendu le 21 avril à Kinshasa où s'était ouverte une session de formation de tous les correspondants de JED à travers la République démocratique du Congo, consacrée aux techniques d'investigation sur les allégations d'atteintes à la liberté de la presse et à la rédaction des alertes.

229. Le 3 mai 2004, 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'allégation concernant la nuit du 27 au 28 avril 2004 : alors que M. **Paul Nsapu** rentrait chez lui en voiture vers 23 h 45, après avoir assisté au séminaire organisé par l'Organisation internationale de la francophonie (OIF) intitulé « Gestion de la transition au regard du rôle des institutions d'appui à la démocratie », il aurait été suivi par deux voitures aux vitres teintées et aux plaques d'immatriculation maquillées. Les conducteurs de ces deux véhicules auraient tenté de provoquer un accident sur le boulevard du 30-Juin au niveau du bâtiment de la Régie des eaux, à Kinshasa, puis l'auraient poursuivi jusqu'à une station-service fréquentée au rond-point de la Victoire, où M. Nsapu se serait réfugié. Ses poursuivants l'auraient surveillé pendant une demi-heure avant de partir. Des craintes ont été exprimées que cette agression ne représente une forme de représailles pour ces activités en faveur des droits de l'homme. Selon les informations reçues, cette agression survient au lendemain d'une interview que M. Paul Nsapu avait donnée à la chaîne de télévision Antenne A, reprise par Télé-Kin-Malebo (TKM), concernant la situation politique en RDC et la suite à donner à la saisine de la Cour pénale internationale (CPI) sur les violations des droits de l'homme dans l'est de la RDC.

230. Le 11 juin 2004, la Représentante spéciale, conjointement avec la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire, a envoyé un appel urgent relativement à l'arrestation de **Robert Ilunga Numbi**, président de l'ONG Les Amis de Nelson Mandela pour la défense des droits de l'homme (ANMDH), Rodolphe Mafuta, président de l'ONG Bana Kalamu, Kally Kalala et Lems Kalema, respectivement président et membre de l'ONG Bana Matonge. D'après les informations reçues, Robert Ilunga Numbi, Rodolphe Mafuta, Kally Kalala et Lems Kalema, auraient été arrêtés le 7 juin 2004 alors qu'ils s'étaient présentés volontairement auprès de l'inspecteur de police judiciaire Khonde suite à une convocation datée du 1<sup>er</sup> juin 2004. Ils seraient détenus, sans avoir été informés de leurs droits, dans un petit cachot insalubre situé dans la cave de l'immeuble abritant la direction générale de la police judiciaire des parquets situé au 30 de l'avenue Kalemie, commune de la Gombe à Kinshasa. Les visites de leur famille ainsi que celles d'un médecin leur auraient été interdites et ils auraient été privés de l'assistance d'un avocat. Des craintes ont été exprimées que cette arrestation vise à réprimer les activités menées par ces organisations en faveur des droits de l'homme et, notamment, suite au litige relatif à un chantier de construction sur un terrain destiné aux jeux des enfants spoliés dans le quartier de Matonge II à Kinshasa.

231. Le 16 juillet 2004, la Représentante spéciale a envoyé un appel urgent concernant M. **Floribert Chebeya Bahizire** le président de l'ONG la Voix des Sans-Voix pour les droits de l'homme (VSV). Selon les informations reçues, le 6 juillet 2004, alors qu'il se rendait à un rendez-vous avec un journaliste du journal « Le Potentiel » au siège du quotidien à Kinshasa, quatre hommes armés auraient interpellé Floribert Chebeya Bahizire aux abords du journal et l'auraient fouillé sous prétexte de rechercher un tract hostile au Gouvernement. Ils lui auraient confisqué sa sacoche et extorqué de l'argent. Ils auraient ensuite semblé attendre des instructions. M. Floribert Chebeya Bahizire aurait profité d'un moment d'inattention de ses présumés ravisseurs pour leur échapper et se réfugier dans les locaux du journal. Les hommes seraient restés aux abords du journal jusqu'à ce que les journalistes leur demandent de partir. Floribert Chebeya Bahizire ne serait ressorti que plus tard. Des craintes ont été exprimées que cet incident ne soit lié aux activités de défense des droits de l'homme de M. Floribert Chebeya Bahizire en particulier dans le cadre des activités de son organisation VSV. Ces craintes sont d'autant plus vives qu'il aurait déjà fait l'objet de menaces verbales de la part de hauts représentants de la Cour d'ordre militaire, aujourd'hui dissoute, qui l'auraient contraint à se réfugier dans la clandestinité fin 2002. Le 6 janvier 2003, la VSV, craignant pour la sécurité et la vie de son président, aurait décidé de suspendre ses activités pendant un mois. Floribert Chebeya Bahizire ne serait rentré en RDC qu'en avril 2003.

### **Communications reçues**

232. Par lettre en date du 3 juillet 2004, le Gouvernement a répondu à la communication envoyée par la Représentante spéciale le 3 mai 2004 relative à **Paul Nsapu**, l'informant qu'il serait dans l'impossibilité de vérifier les dires énoncés dans l'appel urgent ou d'identifier les responsables, aucune plainte n'ayant été déposée par la victime et par conséquent aucune enquête n'ayant été ouverte.

233. Par lettre en date du 28 juillet 2004, le Gouvernement a informé la Représentante spéciale que l'appel urgent, envoyé le 16 juillet 2004, relatif à la situation de M. **Floribert Chebeya Bahizire**, aurait été transmis aux autorités compétentes dans la capitale.

### Observations

234. The Special Representative thanks the Government for its replies to two of the communications sent. She regrets, however, that as of the date of the present report, the Government has not provided any clarification with regard to the reported attacks against human rights defenders. In this respect she notes that also with regard to the communications sent in the course of the year 2003 the Government has not, as to date, provided the clarifications it undertook to submit.

235. The Special Representative expresses her deep concern at the persistent situation of widespread intimidation of human rights defenders and obstruction of their work emerging from the communications, and at the apparent climate of impunity in which these attacks take place. She recalls that the protection of the rights enshrined in the Declaration on human rights defenders is vital to the promotion of human rights, as well as to the re-establishment of peace and security, and renews her invitation to the Government to take resolute steps in this direction. She thanks the Government for responding favourably to her request for an invitation to visit the country and hopes that dates can be agreed on soon in order for her visit to take place shortly.

### Ecuador

#### Comunicaciones enviadas

236. El 3 de febrero de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente sobre la situación del Sr. **Leonidas Iza**, presidente de la Confederación de Nacionalidades Indígenas del Ecuador (CONAIE). De acuerdo con las informaciones recibidas, el 1º de febrero de 2004, hacia las 22 horas, el Sr. Iza y los familiares que le acompañaban, habrían sido atacados por hombres desconocidos que, después de amenazar al Sr. Iza diciéndole "te vamos a matar", habrían comenzado a disparar al grupo a quemarropa, hiriendo a un hijo, a un sobrino y a un hermano del Sr. Iza, los cuales se encuentran hospitalizados. Según la fuente, el hijo del Sr. Iza habría recibido disparos de arma de fuego en el abdomen por lo que habría tenido que ser operado de urgencia y se encuentra en estado de salud muy grave. Se teme que el ataque contra el Sr. Iza estaría en conexión con sus acciones en defensa del pueblo, en particular de las poblaciones indígenas, y a sus manifestaciones públicas contra el Tratado de Libre Comercio (TLC), el Área de Libre Comercio de las Américas y las políticas del Presidente de la República. Según los informes, el Sr. Iza habría criticado públicamente al Presidente, luego de que el mandatario rompiera una alianza con los indígenas gracias a los que había accedido al poder en las elecciones del año 2000. Además, había anunciado que la CONAIE, dentro del ámbito de su trabajo, preparaba la realización de protestas contra la política del Gobierno.

237. El 27 de febrero de 2004, 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 en relación con las amenazas recibidas por los miembros de la **Fundación Pachamama**, una organización de derechos humanos que apoya a la comunidad indígena de Sarayaku en la provincia de Pastaza en su oposición a la concesión otorgada a una empresa extranjera de extracción de petróleo en su territorio. Este caso ya fue objeto de la especial atención del Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas en su informe de 2004 sobre sus comunicaciones con los Estados (E/CN.4/2004/80/Add.1). Según la información recibida, en noviembre de 2002 la comunidad de Sarayaku habría declarado un “estado de alerta” para lograr una movilización contra la incursión de la Compañía General de Combustibles (CGC) en su territorio. Desde entonces, la comunidad habría sido objeto de una campaña de intimidación y difamación, y en febrero de 2003 dos dirigentes indígenas de la comunidad, Franco Viteri y José Gaulinga, habrían sido amenazados de muerte. El 5 de mayo de 2003, la Comisión Interamericana de Derechos Humanos dictó medidas cautelares a favor de los líderes indígenas mencionados anteriormente, y de varios miembros de la comunidad de Sarayaku. El 17 de diciembre del mismo año estas medidas fueron ampliadas durante un período de seis meses, después de que varios miembros de la comunidad de Sarayaku fueran víctimas de repetidas amenazas de muerte y de agresiones físicas los días 4 y 5 de diciembre de 2003, cuando se habrían movilizado a la ciudad de Puyo. Asimismo, según la información recibida, el 18 de enero de 2004, el Ministro de Energía y Minas habría declarado “la OEA no manda aquí”. En este contexto y según se informa, el 12 de febrero, el personal de la Fundación Pachamama habría recibido tres llamadas telefónicas anónimas amenazadoras por parte de un individuo desconocido. En la primera llamada, recibida por la mañana, el individuo habría dicho “el petróleo es el desarrollo del país, si ustedes se oponen, aténganse a las consecuencias”. Poco después, el mismo individuo habría vuelto a llamar y habría insultado al personal de la Fundación Pachamama. Al cabo de varios minutos, el individuo habría llamado una tercera vez y les habría amenazado de muerte. Se teme que estas presuntas amenazas de muerte estén relacionadas con el trabajo llevado a cabo por la Fundación Pachamama a favor de la comunidad indígena Sarayaku en su oposición a la extracción de petróleo en su territorio.

238. El 5 de marzo de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente en relación con la situación de las organizaciones dedicadas a la protección de los derechos humanos, las tradiciones culturales y el territorio de la comunidad Sarayaku, ubicada en la selva amazónica ecuatoriana, en la provincia de Pastaza. En este caso se llama la atención urgente del Gobierno sobre la información adicional recibida en relación con las agresiones sufridas por el **Sr. Marlon Santi**, presidente de la Asociación Sarayaku, una organización dedicada a la defensa de la cultura, las tradiciones y los derechos humanos de la comunidad indígena Kichwa de Sarayaku. Se señala que la situación de dicha comunidad ya fue objeto de un llamamiento urgente enviado conjuntamente el 27 de febrero de 2004 por el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Representante Especial. Según la información recibida, el Sr. Marlon Santi fue agredido y golpeado en Quito la noche del 29 de febrero de 2004. Después, los agresores se habrían llevado los documentos de identificación personal y de viaje del Sr. Santi, así como su dinero. Posteriormente, el agredido informó del suceso y del robo a las autoridades ecuatorianas. Se teme que esta acción esté debida a la intención del Sr. Santi de viajar a Costa Rica el día 3 de marzo, para asistir a una reunión en apoyo de la causa presentada por la comunidad indígena de Sarayaku ante la Comisión Interamericana de Derechos Humanos contra el Estado de Ecuador y

la empresa petrolera argentina Compañía General de Combustibles (CGC). En este contexto y según las informaciones recibidas, la comunidad de Sarayaku habría sido objeto de una campaña de intimidación, aparentemente a consecuencia de su oposición a la concesión otorgada a las empresas petroleras para que empiecen los trabajos de perforación en su territorio. Según se informa, las organizaciones locales de derechos humanos que apoyan la reclamación de la comunidad de Sarayaku también habrían recibido amenazas de muerte, como es el caso de la Fundación Pachamama. La comunidad de Sarayaku afirma que la extracción de petróleo en su territorio dañaría su entorno y su forma de vida. En este sentido, la propia comunidad ha propuesto un desarrollo alternativo y sostenible en su territorio para que su cultura no sufra las consecuencias de tales actuaciones. En mayo de 2003, la Comisión Interamericana de Derechos humanos ordenó a Ecuador que protegiera a la comunidad de Sarayaku después de que algunos de sus dirigentes recibieron amenazas de muerte en febrero de ese mismo año. En diciembre, la Comisión amplió las medidas cautelares después de que miembros de la comunidad de Sarayaku fueron víctimas de repetidas amenazas de muerte y de agresiones físicas y verbales durante una manifestación celebrada ese mismo mes.

239. El 16 de marzo de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente sobre la situación de **Pablo Xavier Ortíz**, asesor de la organización indígena Instituto Amazango, una organización que apoya a la comunidad indígena de Sarayaku, en la provincia de Pastaza. Dicha comunidad ya fue objeto de dos llamamientos urgentes enviados conjuntamente el 27 de febrero de 2004 y el 5 marzo de 2004 por la Representante Especial, el Relator Especial sobre la situación de los derechos humanos y libertades fundamentales de los indígenas, y el Relator Especial sobre el derecho a la libertad de opinión y de expresión. También se llama a la atención urgente del Gobierno la información adicional recibida en relación con las amenazas que habría recibido Pablo Xavier Ortíz, según la cual, el 18 de febrero de 2004 habría recibido una llamada telefónica anónima en la que el individuo le habría gritado “hijo de puta, vos que andais con los indios del Puyo”. El 12 de febrero, Pablo Xavier Ortíz habría recibido otra llamada anónima en un hotel de la localidad de Puyo donde estaría trabajando, en la cual el autor le habría dicho “vas a ver, hijo de puta, qué te hacemos.” Se informa además que el 1º de marzo un hombre habría llamado a la casa de Pablo Xavier Ortíz y, al enterarse de que no estaba, habría pedido otros números de teléfono donde se le pudiera localizar diciendo que tenía una reunión con el Ministro de Relaciones Exteriores. Se teme que estas presuntas amenazas de muerte estén relacionadas con el trabajo llevado a cabo por Pablo Xavier Ortíz y el Instituto Amazango a favor de la comunidad indígena Sarayaku en su oposición a la extracción de petróleo en su territorio.

240. El 17 de marzo de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Relator Especial sobre la tortura, envió un llamamiento urgente en relación con **Patricio Ordóñez Maico**, de 27 años de edad, miembro de la Fundación Amigos por la Vida, una organización no gubernamental que trabaja para los derechos de las personas lesbianas, gays, bisexuales y transexuales. Patricio Ordóñez Maico habría sido detenido dos veces en mayo y junio de 2001 por agentes de la policía nacional en Quito. Durante su primera detención habría sido sometido a abusos sexuales por un agente que le habría amenazado de muerte en caso de que denunciara los hechos. Sin embargo, en junio de

2001, habría presentado una denuncia ante la Policía Nacional. En su carta de fecha 2 de septiembre de 2002, el Relator Especial sobre la cuestión de la tortura notificó al Gobierno que había recibido información sobre estas alegaciones (E/CN.4/2003/68/Add.1, párr. 430). Desde que interpuso su primera denuncia, Patricio Ordóñez Maico habría recibido varias amenazas de muerte. El 25 de febrero de 2002, uno de los agentes denunciados se habría presentado en un restaurante donde se encontraba con unos amigos y lo habría amenazado de muerte si no retiraba la denuncia. Tras este incidente, Patricio Ordóñez Maico habría presentado otra denuncia y se habría instalado en otra ciudad por temor a su seguridad. El pasado 12 de marzo de 2004, un intruso se habría introducido en las instalaciones de la Fundación Amigos por la Vida, habría atacado a Patricio Ordóñez Maico y lo habría amenazado de muerte. Patricio Ordóñez Maico habría conseguido escapar pero habría resultado herido en el pecho y la espalda. El intruso no habría robado nada en las instalaciones, y todo indicaría que su única intención era de atacar a Patricio Ordóñez Maico. Más tarde, éste habría presentado una denuncia ante la Policía Judicial de Guayaquil. El incidente del 12 de marzo de 2004 habría ocurrido una semana después de que Patricio Ordóñez Maico expuso su caso durante una reunión organizada en Quito por la Federación Internacional de Derechos Humanos. Según la información recibida, Patricio Ordóñez Maico todavía no habría sido notificado de los resultados de las investigaciones abiertas a raíz de sus repetidas denuncias ni habría sido informado sobre las medidas tomadas para llevar los agentes denunciados ante la justicia.

241. El 19 de abril de 2004, 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 sobre la situación de los miembros de la organización **Fundación Pachamama**, una organización dedicada a la protección de los derechos humanos, las tradiciones culturales y el territorio de la comunidad Sarayaku, ubicada en la selva amazónica ecuatoriana en la provincia de Pastaza. En este contexto se señala que la comunidad de Sarayaku, tanto como las organizaciones que la apoyan como es el caso de la Fundación Pachamama, habrían sido objetos de una campaña de intimidación aparentemente a consecuencia de su oposición a la concesión otorgada a las empresas petroleras para los trabajos de perforación en su territorio. Se señala igualmente que la situación de la Fundación Pachamama ya fue objeto de un llamamiento urgente enviado el 27 de febrero de 2004 por el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Representante Especial. La situación de otras organizaciones e individuos que también apoyan a la comunidad indígena de Sarayaku, como es el caso de la Asociación Sarayaku, también fue objeto de dos llamamientos urgentes enviados el 5 y el 27 de marzo por el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, el Relator Especial sobre el derecho a la libertad de opinión y de expresión y la Representante Especial. Según la información adicional recibida, el 6 de abril de 2004, el personal de la Fundación Pachamama habría recibido una llamada telefónica en la cual el autor habría advertido de la colocación de una bomba en la oficina de la organización. El autor de la llamada habría dicho “ya les advertimos y no nos hicieron caso; ahora les dejamos un regalito en el edificio”. Se informa que el personal habría evacuado el edificio y llamado a la policía quien habría registrado el edificio. Unas horas después y según se informa, alguien habría dejado una caja delante de la puerta de la Fundación, la cual habría sido inspeccionada por la policía quien habría comprobado que estaba vacía. Se informa que la Fundación habría denunciado tanto este incidente como las amenazas de muerte que habrían recibido en febrero a la Fiscalía General pero que, hasta la fecha, no se

habría tenido noticia de que la Fiscalía General haya abierto una investigación en relación con los hechos.

242. El 26 de abril de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente sobre la situación de los miembros de la **Fundación Amigos por la Vida**, y en particular de unos de los miembros de la organización, Patricio Ordoñez Maico. Según la información recibida, Patricio Ordoñez Maico habría sido detenido en mayo y junio de 2001 por agentes de la Policía Nacional en Quito. Durante su primera detención habría sido sometido a abusos sexuales por un agente que le habría amenazado de muerte en caso de que denunciara los hechos. Sin embargo, en junio de 2001 habría presentado una denuncia ante la Policía Nacional. Desde que interpuso su primera denuncia, Patricio Ordoñez Maico habría recibido varias amenazas de muerte y el 12 de marzo de 2004 habría sufrido un atentado contra su vida. Su caso ya fue objeto de un llamamiento urgente enviado conjuntamente el 17 de marzo de 2004 por la Representante Especial, el Relator Especial sobre la tortura, el Relator Especial sobre el derecho a la libertad de opinión y de expresión y la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, y de un llamamiento por el Relator Especial sobre la tortura el 2 de septiembre de 2002. Según la información adicional recibida, el 11 de abril de 2004 el personal de la Fundación Amigos por la Vida habría recibido una llamada telefónica anónima cuya autor habría dicho “se va a colocar una bomba en la Fundación para que vuelen con todo, ya que son unos maricones hijos de puta.” El mismo día, según se informa, un individuo en civil que se habría identificado como miembro de la policía nacional de Ecuador habría acudido a la Fundación Amigos por la Vida. Habría dicho que venía para llevar a Patricio Ordoñez Maico a la comisaría para que hiciera una declaración. Cuando el personal de la Fundación le pidió que mostrara su identificación, el individuo se habría marchado y según se informa, habría sido visto entrando en un automóvil dorado con cristales tintados y sin placa de matrícula.

243. El 27 de abril de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente en relación con **José Serrano Salgado**, miembro de la organización no gubernamental Centro de Derechos Económicos y Sociales (CDES), quien habría sido amenazado de muerte el 25 de abril de 2004. Según la información recibida, José Serrano Salgado viajaba en su coche en la Vía Norte-Sur, en Quito, provincia de Pinchíncha, cuando tres individuos no identificados que viajaban en un automóvil sin placa de matrícula le habrían obligado a pararse. Los informes indican que uno de los individuos llevaba un revólver. Cuando José Serrano Salgado salió del automóvil, el individuo armado le habría amenazado de muerte e insultado varias veces. Según la información recibida, los tres individuos le habrían pedido que les entregara su móvil y al ver que lo había dejado en su casa, habrían seguido amenazándole de muerte. Antes de marcharse, los tres agresores se habrían llevado las llaves del automóvil de José Serrano Salgado. Se teme que estas presuntas amenazas contra José Serrano Salgado estén relacionadas con sus actividades en la comunidad indígena de Sarayaku y su oposición a la concesión otorgada a las empresas petroleras. Se informa que el José Serrano Salgado habría denunciado la agresión ante la policía el 25 de abril de 2004.

244. El 7 de mayo de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente en relación con

**José Solís Solís**, periodista del diario *El Universo* en Guayaquil. Según la información recibida, el 26 de abril de 2004, José Solís Solís habría recibido dos llamadas telefónicas de un individuo no identificado quien habría dicho “¿El Licenciado Solís? Dígame al Licenciado Solís que no se meta con nosotros que ya vamos a salir”. Dos semanas antes, cuando José Solís Solís se encontraba cerca de su casa, cuatro desconocidos que viajaban en un vehículo blanco sin placas de matrícula le habrían gritado “Cuidate”. José Solís Solís habría presentado una denuncia ante la Fiscalía General por los hechos ocurridos. Las amenazas contra José Solís Solís estarían relacionadas con sus informes sobre las presuntas ejecuciones extrajudiciales de personas detenidas después de un robo en una farmacia en Guayaquil y sobre la presunta desaparición de Johnny Elías Gómez Balda, César Augusto Mata Valenzuela y Edwin Daniel Vivar Palma. Estas tres personas habrían sido detenidas por la policía el 19 de noviembre de 2003 en relación con el robo. Habrían telefonado a sus familiares poco después de ser detenidas y les habrían dicho que estaban bajo custodia en el cuartel de la Policía Judicial de Guayaquil. Según la Fiscalía General de Guayaquil, estas tres personas habrían sido liberadas. Según la policía, no habrían sido trasladadas a un centro de detención y Jhonny Elías Gómez Balda no habría sido arrestado.

245. El 26 de octubre de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente en relación con **Leonidas Iza**, Presidente de la Confederación de Nacionalidades Indígenas en Ecuador (CONAIE). Según la información recibida, el 13 de octubre de 2004 a las 9.45 de la mañana, Leonidas Iza habría recibido una amenaza de muerte anónima en su teléfono celular. Se alega que el realizador de la llamada habría amenazado de muerte a Leonidas Iza y a toda su familia. Se informa también que el 14 de octubre de 2004, en horas de la madrugada, se habría producido un robo en las oficinas de la sede de CONAIE en Quito en el cual varios ordenadores conteniendo información importante para el movimiento indígena habrían sido robados. De acuerdo con las informaciones recibidas, el resguardo policial de la sede no estaba presente ese día. Se teme que las amenazas de muerte en contra de Leonidas Iza y su familia puedan estar relacionadas con su trabajo como defensor de los derechos de las poblaciones indígenas y a sus manifestaciones públicas contra las políticas del gobierno. Además se teme que el allanamiento de la sede de CONAIE pueda constituir un claro intento de impedir las actividades de la organización.

### **Observaciones**

246. The Special Representative regrets that at the time of the finalization of this report, the Government had not replied to her communications. She reiterates her serious concerns at the safety of human rights defenders carrying out their legitimate work in Ecuador. She refers to her main report (E/CN.4/2005/101) for a detailed analysis of the trends in the situation of human rights defenders in Ecuador.

## **Egypt**

### **Communications sent**

247. On 19 January 2004, the Special Representative sent an urgent appeal regarding the alleged delay in approving a grant awarded to **The Egyptian Organization for Human Rights**

**(EOHR)**. According to the information received, on 1 September 2003, the EOHR was awarded a grant of US\$40,000 from the National Endowment for Democracy in the United States of America to fund a one-year project of human rights monitoring in the country and produce an annual report. The project was reportedly due to begin on 1 October 2003, however the organization has allegedly not received approval for this grant despite having applied to the Ministry of Social Affairs in Masr Elkadima on 18 September 2003, as required under article 17 of NGO Law 84/2002. This law has already been the subject of an urgent action by the Special Representative on 18 June 2003. Concern has been expressed that the alleged delay in approving this grant may be aimed at preventing the EOHR from carrying out its work in defence of human rights.

248. On 16 July 2004, the Special Representative, together with the Special Rapporteur on torture, sent an urgent appeal concerning the **El Nadim Centre for the Psychological Rehabilitation of Victims of Violence**. It was founded in 1993 by a collective of doctors and psychiatrists and operates as a clinic registered with the Doctor's Syndicate. It provides treatment and rehabilitative services to victims of torture by police and security forces, as well as victims of domestic violence. It also assists victims by bringing their cases to the attention of relevant authorities and by pursuing criminal charges against the perpetrators. According to the allegations received, on 11 July 2004, agents of the Ministry of Health entered the Cairo offices of El Nadim Centre and confiscated documents, including patients' files and publications produced by the Centre, and took photographs of the premises. It is alleged that they had an aggressive and threatening behaviour. Later, the agents of the Ministry of Health filed a complaint with the Ministry of Health accusing the El Nadim Centre of using its premises as a clinic for prohibited purposes. This complaint could give the Ministry grounds to order the closure of the Centre.

#### **Communications received**

249. By letter dated 3 March 2004, the Government replied to the communication sent by the Special Representative on 19 January 2004 in connection with the alleged delay in approving a grant awarded to **The Egyptian Organization for Human Rights (EOHR)**. The Government confirmed that the case had been examined by the Ministry of Social Affairs at the beginning of 2004, and informed the Special Representative that all the necessary administrative measures to approve the EOHR's grant had been taken.

250. By letter dated 20 September 2004, the Government replied to the communication sent by the Special Representative on 16 July 2004 concerning allegations regarding the **El Nadim Centre for the Psychological Rehabilitation of Victims of Violence**. According to information received from the Prosecutor's Office, the accused denied the allegations made against them and stated that the inspection on 11 July 2004 was carried out pursuant to article 11 of the Regulation of Medical Institutions Act No. 51 of 1981. They also declared that during the inspection, several violations were discovered, in particular the existence of unacceptable hygiene standards, unregistered doctors working at the centre, the lack of a functioning technical director and the unauthorized publication of books, thereby infringing upon article 10 of the aforementioned act. The Government confirmed that the Ministry of Health had been officially informed of these breaches in the law. It stated that the centre had been given a month to take remedial action and had been notified that failure to comply with the required standards would lead to the withdrawal

of its licence (article 13, para. 5). In its response, the Government reported that the centre was re-inspected on 24 August 2004, and closed down. On 31 August 2004, it was re-inspected once more and found to have remedied most of the violations. The investigation is ongoing.

### **Responses received to communications sent by the Special Representative in previous years**

251. By letter dated 25 May 2004, the Government replied to the urgent appeal sent jointly 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 on 12 August 2003 concerning **Ashraf Ibrahim**, with reference to its previous reply dated 30 September 2003. The Government informed that, on 6 March 2004, Mr. Ibrahim had been acquitted by the ruling of the court.

### **Observations**

252. The Special Representative thanks the Government for its response to both communications sent. In particular, she welcomes the steps taken for the approval of the grant. Similarly, in light of the conclusions of the 31 August 2004 re-investigation, she invites the Government to find a suitable solution to the recent closure of the El Nadim Centre. Finally, the Special Representative would like to thank the Government for the interest it has shown in considering her request for an invitation to conduct an official visit and hopes her request will receive a favourable answer shortly.

## **Ethiopia**

### **Communications sent**

253. On 13 February 2004, 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 concerning alleged actions by the Government to interfere with the functioning of the **Ethiopian Free Journalists Association (EFJA)**, a private association defending the rights of journalists working in the country, for whom a letter of allegation was sent on behalf of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 28 November 2003. According to more recent information received, on 4 January 2004, the Ministry of Justice convened a meeting of the members of the Association, which, due to the boycott of the members, was re-scheduled for 18 January. That day, and reportedly despite the sparse attendance, the Ministry announced the election of a new executive committee of the EFJA. Fears have been expressed that this action may be politically motivated, as the Association had, over the months preceding this meeting, been critical about a proposed new press law, which seemed to contain provisions that would in effect reinforce control over the press and journalists, and in particular introduce criminal sanctions for the failure of the press to "investigate the correctness of the news that it publishes" (article 19), require publications and distributors to be registered and licensed (arts. 7 and 9), give the Government power to withhold or withdraw registration and licences subject only to post-denial or post-revocation of judicial review, and allow the Minister for Information to prohibit the local press from reprinting news published outside the country if it is deemed that the report "endangers peace and security",

"spreads false accusations and defamation against public bodies and officials" and "harms and weakens" patriotism.

254. On 26 March 2004, 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 concerning the situation of **Yohannes Solomon**, a member and employee of the Ethiopia Human Rights Council (EHRCO) and a member of the Central Council of the Ethiopian Teachers Association. According to the information received, on 6 and 8 March 2004, two plain clothes policemen reportedly came to the home of Yohannes Solomon in Addis Ababa and stated that they had come to arrest him. Yohannes Solomon was reportedly not there at the time, having left the country on the 6 March to attend events related to the United Nations Commission on Human Rights in Geneva. His sister reportedly asked him why they wanted to arrest him. They allegedly stated that they wanted to interrogate him and further stated that he should stop working for EHRCO. According to the information received, Yohannes Solomon had reportedly previously been the victim of harassment by members of the security forces on 25 May and 10 September 2001. Concern has been expressed that Yohannes Solomon is being targeted for his human rights activities and in particular his advocacy work on behalf of EHRCO and for the Central Council of the Ethiopian Teachers Association on education and the rights of teachers.

255. On 3 June 2004, the 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 regarding the situation of **Diribi Demissie**, **Gemechu Feyera** and **Sentayehu Workneh**, president, vice-president and treasurer of the Macha Tulema Association (MTA), an officially registered Oromo community welfare organization, and 13 other members of the Oromo. According to the information received, the MTA has been raising funds to provide food and shelter for 300 Oromo students who were suspended or expelled from Addis Ababa University following their arrest on 21 January 2004 during a demonstration to demand the release of eight other students. These students had allegedly been arrested after protesting against the Government's decision to transfer the Oromia regional capital from Addis Ababa to Adama. According to the information received on 18 May 2004, Diribi Demissie, Gemechu Feyera and 13 other members of the Oromo were reportedly arrested in Addis Ababa. Sentayehu Workneh was reportedly arrested on 20 May and was allegedly beaten during his arrest. They were reportedly initially held incommunicado at the Central Investigation Department *Maikelawi*. Six of the students have allegedly been provisionally released while the three MTA officials and the seven other Oromo have reportedly been accused of involvement in a bombing incident at Addis Ababa University on 29 April 2004 and of having links to the Oromo Liberation Front (OLF). It is reported that they are due to appear in court on 3 June 2004. Concern has been expressed that Diribi Demissie, Gemechu Feyera and Sentayehu Workneh may have been targeted for their human rights work and in particular their work on behalf of the Oromo.

### **Communications received**

256. By letter dated 7 May 2004, the Government replied to the urgent appeal sent on 13 February 2004. The Government informed that for three consecutive years, the **Ethiopian Free Journalists Association** (EFJA) had failed to present reports on its activities and performance and audits adopted by its general assembly. The Ministry of Justice had given several notices to

the EFJA in this regard. When the EFJA did not respond to these notices, the Ministry was forced to take legal measures and decided to suspend the organization until it fulfilled its obligations. The Government stated that however, taking into account the importance of the resumption of its function, the Ministry decided to discuss the problems with members of the EFJA. To this end, the general assembly of the organization was called for a meeting within one month of the suspension of the EFJA. The first meeting was adjourned, as most of the members of the general assembly were not present. According to the Government, the second meeting decided, after dealing extensively with the issues, to change the EFJA leadership, whose term of office was long overdue (four years). A new Executive Committee has hence been established from among the members of the general assembly who were present at the meeting. The Government informed that this procedure was in accordance with the statutes of the EFJA. It stated that this election was entirely undertaken by EFJA members present at the meeting and that it is not related to the press law as alleged.

257. By letter dated 29 July 2004, the Government replied to the communication sent by the Special Representative on 3 June 2004 concerning the situation of **Diribi Demissie, Gemechu Feyera** and **Sentayehu Workneh**, president, vice-president and treasurer of the Macha Tulema Association (MTA), and 13 other members of the Oromo. According to the Government, Macha Tulema is an affiliate of the Oromo Liberation Front, and its work with the welfare association for Oromo people a simple guise for its violent and illegal activities. The Government declared that the police had uncovered factual evidence on their alleged involvement. The Government therefore emphasized that the legal proceedings against the officials of the Macha Tulema Association and the 13 other individuals were in complete conformity with the law. The aforementioned persons were arrested in connection with the terrorist attack on Addis Ababa University on 29 April 2004. They are currently standing trial and have been remanded in custody until the Court presents its findings.

### **Observations**

258. The Special Representative thanks the Government for its two responses. With respect to the case of the EFJA, she must note that the Government's explanation has not dispelled her concern with respect to government interferences into the association's operations. The Special Representative acknowledges that EFJA may have failed to present its financial statements and audit reports. She notes, however, that the Government does not contend that EFJA failed to keep its financial records properly or was engaged in fraud. There was thus no compelling public interest requiring the Government to sanction the organization. As a general principle, the Special Representative is of the opinion that, while correct and transparent book keeping by NGOs is very important, this is not primarily to protect government interest. NGOs engaged in the defence of human rights should keep transparent financial records and subject themselves to audits in order to attract vital contributions from funders. The sanction for failing to do so should be - and is - that potential funders refuse to support the NGO. Governments, on the other hand, should only intervene if there are allegations that shortcomings in the keeping of financial records amount to fraud, misappropriation or other criminal activities.

**France**

### Communications envoyées

259. Le 26 mai 2004, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la vente d'enfants, la prostitution d'enfants et la pornographie impliquant des enfants a envoyé une lettre d'allégation concernant la situation du Dr **Catherine Bonnet**, psychiatre et défenseur des droits des enfants. Selon les informations reçues, depuis 1996 le Dr Bonnet aurait fait l'objet de multiples procédures disciplinaires de la part du Conseil de l'Ordre des médecins et de mises en examen répétées pour dénonciations calomnieuses, suite à des signalements et diagnostics d'abus sexuels sur mineurs. Selon les informations reçues, le Dr Bonnet, aurait examiné six enfants de familles différentes et aurait rédigé des certificats médicaux attestant des abus sexuels commis par l'un des parents. Le 5 décembre 1998, les parents concernés par ces signalements auraient porté plainte contre le Dr Bonnet auprès du conseil régional de l'Ordre des médecins d'Ile-de-France pour avoir rédigé des certificats de complaisance et pour dénonciations calomnieuses lors de ses diagnostics, pourtant confirmés par d'autres experts médicaux. Le conseil régional de l'Ordre des médecins d'Ile-de-France aurait condamné le Dr Bonnet à trois fois trois ans d'interdiction de pratiquer la médecine pour avoir rédigé de faux certificats et pour manquement à la déontologie. En août 1999, l'instance nationale du Conseil de l'ordre saisie en appel aurait révisé et annulé la condamnation pour signalement au nom de l'article 226-14, requalifié les motivations des autres condamnations et réduit la sanction à une période de 15 jours d'interdiction d'exercer sa profession assortie de deux avertissements disciplinaires présumément en dépit de diagnostics confirmant son expertise. En juillet 2001, le Conseil d'Etat aurait confirmé cette décision. D'autres plaintes auraient continué à être déposées auprès des instances disciplinaires, à la suite desquelles le conseil régional de l'Ordre des médecins aurait à nouveau condamné le Dr Bonnet. Ces décisions auraient à nouveau été révisées ou annulées par le Conseil national de l'Ordre des médecins. Parallèlement aux procédures disciplinaires, le Dr Bonnet aurait fait l'objet de plusieurs plaintes au pénal dont l'une serait toujours en cours. En particulier, elle aurait été mise en examen une première fois en juin 2002 pour dénonciation calomnieuse; un non-lieu aurait été prononcé le 19 octobre 2002. Le 9 octobre 2002, le Dr Bonnet aurait été mise en examen une seconde fois pour un autre signalement par le tribunal de grande instance de Paris pour dénonciation calomnieuse supposément sur la base de ses condamnations en première instance disciplinaire. L'instruction se serait terminée le 6 mars 2003, annonçant la transmission du dossier au parquet dans un délai de 20 jours. Aucune décision n'aurait été rendue depuis lors. En conséquence des multiples poursuites disciplinaires et judiciaires à son encontre et d'articles publiés par les médias, le Dr Bonnet aurait perdu sa clientèle privée, puis son travail salarié et s'avèrerait être au chômage. D'autres praticiens médicaux auraient également été soumis à des sanctions disciplinaires lors de circonstances semblables, mais n'auraient pas voulu en divulguer les détails auprès des mécanismes onusiens des droits de l'homme par crainte de subir les mêmes traitements que le Dr Bonnet. Par ailleurs, selon les information reçues, le 18 décembre 2003, suite notamment à un mouvement de protestation de la part de nombreux médecins quant aux dispositions de la loi réglementant les signalements et diagnostics d'abus sexuels, le Parlement aurait voté un amendement interdisant les poursuites disciplinaires. Des craintes ont été exprimées que les multiples poursuites disciplinaires et judiciaires contre le Dr Bonnet ne visent à faire obstacle à ses activités en la faveur de la défense des droits des enfants.

260. Le 30 juillet 2004, 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 un appel

urgent concernant **Mme Keita Matindie**, membre du parti d'opposition le Rassemblement des Républicains (RDR), trésorière de la section Jeunesse et membre active de la section Femmes du parti et défenseur des droits de l'homme dont la demande d'asile aurait été rejetée. Mme Keita Matindie faisant l'objet d'une procédure d'expulsion du territoire français devrait être renvoyée en Côte d'Ivoire de façon imminente. Selon les informations reçues, son père, Seydou Keyta aurait été tué par des CRS lors des violences de 2000 et aurait fait partie des victimes du charnier de Yopugon. Par ailleurs, elle aurait participé à la marche de protestation organisée par les partis d'opposition le 25 mars 2004 et aurait été témoin de sérieuses violations des droits de l'homme dont des exécutions sommaires perpétrées par les forces de sécurités du pays. Elle aurait à cette occasion été battue par les CRS avec d'autres militants du RDR. Au cours de ces manifestations, son époux Paul Kiburugupu et sa mère auraient été arrêtés et seraient depuis portés disparus. En avril 2004, Mme Keyta Matindie aurait témoigné sur les violations commises par les forces de l'ordre, et dont elle aurait été témoin lors des événements des 25 et 26 mars 2004 à Abidjan, auprès de la Commission d'enquête internationale établie par le Haut-Commissariat aux droits de l'homme. Suite à son témoignage, elle aurait fait l'objet de nouveaux harcèlements et, notamment, elle aurait reçu des menaces de mort de la part de membres du GPP (Groupement patriotique pour la paix), proche de la présidence, lui disant qu'elle était étrangère, membre du RDR et qu'ayant assisté aux violences elle méritait d'être battue et tuée. Durant plusieurs mois, elle aurait été obligée de fuir son domicile en raison du harcèlement dont elle aurait fait l'objet. Selon les informations reçues, le 20 juillet 2004, elle serait arrivée à l'aéroport de Roissy – Charles-de-Gaulle en France en possession d'un visa Schengen valide et aurait sollicité son admission au titre de l'asile à la frontière. Sa demande aurait été refusée par le chef du bureau d'asile politique à la frontière en raison du caractère « manifestement infondé » de sa demande. Elle n'aurait pas été autorisée à rentrer sur le territoire pour que sa demande soit examinée sur le fond. Le motif de la décision reposerait sur le fait que « les déclarations de l'intéressée seraient imprécises et lacunaires » et qu'elle n'apporterait pas d'éléments probants sur les fait mentionnés ci-dessus. Néanmoins, selon les informations reçues, Mme Matindie aurait de sérieuses difficultés à s'exprimer en français et n'aurait pas été assistée d'un interprète lors de son premier entretien. Mme Keita se trouverait actuellement en zone d'attente à Roissy et son expulsion serait prévue pour demain. De sérieuses craintes ont été exprimées que son retour en Côte d'Ivoire ne mette sa vie et son intégrité physique en danger.

### **Communications reçues**

261. Le 16 août 2004, le Gouvernement a répondu à la communication envoyée le 30 juillet 2004 par la Représentante spéciale sur la situation de **Mme Keita Matindie**, qui, au moment de l'appel urgent, se trouvait en attente de reconduite en Côte d'Ivoire. Selon le Gouvernement, les autorités auraient conduit une enquête et l'intéressée aurait été entendue à plusieurs reprises. Cette enquête aurait conduit au rejet de sa demande d'asile. En effet, il serait apparu que le passeport présenté par cette personne était un passeport volé et que la personne qui se présentait comme Mme Keita Matindie n'était pas la personne qui avait témoigné devant la Commission d'enquête internationale établie par le Haut-Commissariat aux droits de l'homme.

262. Le 10 novembre 2004, le Gouvernement a répondu à la communication envoyée le 26 mai 2004 par la Représentante spéciale sur la situation du Dr **Catherine Bonnet**. Le Gouvernement a indiqué que, dans l'exercice de son métier, le Dr Bonnet a produit des certificats médicaux attestant de sévices à enfants, mais ces certificats auraient dépassé, dans

certains cas, le simple constat des sévices et auraient notamment été remis non aux autorités compétentes mais aux conjoints des personnes que le Dr Bonnet soupçonnait d'abus sexuels. Des plaintes auraient été déposées contre elle. Le Conseil de l'Ordre des médecins, qui serait une juridiction, aurait dû examiner celles-ci au regard des règles de déontologie qui s'imposent aux médecins.

263. Le Gouvernement a indiqué que le régime disciplinaire des médecins doit permettre de concilier liberté d'exercice et respect des règles de déontologie. A cette fin, l'article 76 du Code de déontologie médicale stipule que le médecin ne doit faire état, dans les certificats médicaux qu'il délivre à ses clients, que des constatations médicales qu'il est en mesure de faire. Par ailleurs, aux termes de l'article 44 du Code de déontologie lorsqu'un médecin discerne qu'un mineur de quinze ans est victime de sévices ou de privations il doit alerter les autorités judiciaires, médicales et administratives. Le Gouvernement relève enfin que le législateur français, conscient de la difficulté des professionnels de la petite enfance, a promulgué le 2 janvier 2004 une loi relative à l'accueil et à la protection de la petite enfance. Cette loi modifie l'article 226-14 du Code pénal en prévoyant que le signalement aux autorités compétentes ne peut faire l'objet de sanctions disciplinaires.

264. Le Gouvernement a observé que les conseils régionaux exercent, au sein de l'Ordre des médecins, la compétence disciplinaire de première instance. La section disciplinaire du Conseil national de l'Ordre des médecins est compétente pour connaître des appels. Ses décisions peuvent enfin faire l'objet d'un recours devant le Conseil d'Etat, qui est la plus haute juridiction administrative.

265. Dans le cas du Dr Bonnet, le conseil régional de l'Ordre des médecins de la région Ile-de-France, statuant sur des plaintes transmises par le conseil départemental de la Ville-de-Paris, a infligé plusieurs sanctions au Dr Bonnet. En appel, la section disciplinaire du Conseil national a réformé trois d'entre elles et annulé les trois autres. Dans trois cas où le Dr Bonnet avait fait des signalements au Procureur de la République, le Conseil national a annulé les sanctions, déclarant qu'elle n'avait pas manqué à son devoir de prudence et circonspection. Dans trois autres cas où le Dr Bonnet avait remis des certificats, attestant des abus sexuels commis par un des parents, à l'autre parent, dont elle n'ignorait pas qu'il/elle se trouvait en conflit avec le premier, le Conseil national a confirmé qu'elle avait manqué à ses devoirs de prudence. Malgré tout, le Conseil national a réformé à deux reprises les lourdes peines d'interdiction d'exercer la médecine en ne prononçant qu'un simple blâme. Dans le troisième cas, il a ramené la durée de l'interdiction d'exercer la médecine de 3 ans à 15 jours.

### **Observations**

266. The Special Representative thanks the Government for prompt and detailed replies to the communications sent. In the case of Ms. Keita, she commends the Government for having conducted a prompt investigation into the case and having suspended the expulsion of the individual in question in order to examine her case. She considers that the Government's explanations with regard to the case of Ms. Matindie solve the concerns raised in the communication.

267. With regard to the case of Dr. Bonnet, the Special Representative welcomes the legislation recently enacted by the French Parliament to enhance the protection of physicians who denounce suspected cases of child abuse to the competent prosecutorial and judicial authorities against legal action by parents of the child and other persons affected. The Special Representative remains, however, preoccupied that this legislation and the way it is implemented may not go far enough in effectively shielding physicians against abusive complaints. In particular, the Special Representative remains concerned about the fairness of proceedings before the disciplinary bodies of the *Ordre des Médecins*. She believes that physicians play a vital role in the protection of children against the most serious violations of their rights, and that they have to be in turn effectively protected in this role as human rights defenders.

## Guatemala

### Comunicaciones enviadas

268. El 20 de enero de 2004, la Representante 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 el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía, envió un llamamiento urgente con relación al caso pendiente de **Bruce Harris**, director ejecutivo de los programas para América Latina de Casa Alianza y un defensor de los derechos de los menores de edad, que será analizado por un tribunal guatemalteco el 22 de enero próximo. Según la información recibida, Bruce Harris fue acusado de difamación por Susana de Umaña, siguiendo una conferencia de prensa celebrada en septiembre de 1997 en la cual la Oficina del Procurador General y Casa Alianza expusieron el tráfico ilegal de niños en Guatemala. Durante la conferencia, Bruce Harris habría declarado que Susana de Umaña habría utilizado “influencia indebida” con las autoridades gubernamentales para facilitar las adopciones internacionales. En febrero de 1999, la Corte Constitucional habría dictado que, por no ser miembro de los medios de comunicación, Bruce Harris no tenía derecho a la libertad de expresión— la defensa en contra de la difamación. De esta manera, Bruce Harris enfrenta la posibilidad de una condena criminal y cinco años de encarcelamiento.

269. El 5 de febrero de 2004, la Representante Especial envió un llamamiento urgente sobre la situación de **Orlando Joaquín Blanco Lapola**, director del Centro Internacional de Investigaciones en Derechos Humanos (CIIDH). Según las informaciones recibidas, el 16 y el 30 de enero 2004, y el 2 de febrero, **Orlando Joaquín Blanco Lapola** habría recibido amenazas telefónicas anónimas insultándole y amenazándole de muerte. Se presume que las amenazas guardarían relación con sus actividades en favor de los derechos humanos, particularmente su participación en la elaboración del acuerdo para el establecimiento de la Comisión para la Investigación de Cuerpos Ilegales y Aparatos Clandestinos de Seguridad (CICIACS).

270. El 5 de marzo de 2004, la Representante Especial, junto con el Relator Especial sobre la promoción y la protección del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente sobre la situación de **Eloída Mejía Samoya**, presidente y representante legal de la Asociación Amigos del Lago Izabal, una organización que se opone a la reactivación de las actividades mineras en el departamento de Izabal. Según la información recibida, el 18 de febrero, Eloída Mejía Samoya habría sido advertida de que si no dejaba de oponerse a las

actividades mineras, se arriesgaba a que la mataran. Habrían dicho además a su casero que quemarían la casa en la que vive Eloída Mejía Samayoa si ésta continuaba con sus actividades. El 21 de febrero, según la información, la Asociación Amigos del Lago Izabal habrían convocado una reunión en la localidad de Puerto Barrios para informar a los habitantes de la zona sobre las repercusiones ecológicas de las actividades mineras, durante la cual un grupo de individuos desconocidos se la habrían interrumpido y habrían amenazado a Eloída Mejía Samayoa, diciendo “que cayera su cabeza”. Se informa además que estas amenazas vienen precedidas por el presunto asesinato de Enrique Alcantará, trabajador del Consejo Nacional de Áreas Protegidas (CONAP) y activista medioambiental quien habría luchado contra el tráfico ilegal de fauna silvestre. Según la información, el 10 de febrero de 2004, a las 15.00 horas, Enrique Alcantará habría sido asesinado de impactos de bala por desconocidos en la ciudad de Puerto Barrios. Se teme que estas presuntas amenazas de muerte contra Eloída Mejía Samayoa y el presunto asesinato de Enrique Alcantará estén relacionados con sus actividades de defensa del medio ambiente a favor de los habitantes del departamento de Izabal.

271. El 19 de marzo de 2004, la Representante Especial, junto con el Relator Especial sobre la promoción y la protección del derecho a la libertad de opinión y de expresión y el Relator Especial sobre la tortura, envió un llamamiento urgente en relación con **Victoriano Zacarías Mindez**, secretario ejecutivo de la Central General de Trabajadores de Guatemala (CGTG) y secretario general del Sindicato de Pilotos Automovilistas y Similares de Guatemala, tal como Wilson Carreto y Miguel Angel Ochoa, directivos de la Unión de Pilotos de Transporte Pesado por Carretera, quienes habrían sido detenidos el 25 de febrero de 2004, supuestamente de manera violenta, por las fuerzas estatales de seguridad en la ciudad de Guatemala. Según las informaciones recibidas, estas tres personas habrían manifestado contra la medida que habría implementado la municipalidad de Guatemala, la cual restringiría la circulación de vehículos pesados en la capital, obligando los conductores a trasladar su trabajo a horarios nocturnos y peligrosos. Durante esta manifestación, se habrían observado incidentes de orden público. Debido al derrame de gasolina de dos cisternas que se colocaron en un cruce de avenidas en el centro de Guatemala, a las personas detenidas durante la manifestación, se les habría tipificado entre otros cargos, el de "terrorismo". Sin embargo, según testimonios, este acto habría sido realizado por personas infiltradas dentro de la manifestación para provocar el caos. De acuerdo con las informaciones recibidas, Victorio Zacarías Mindez, Wilson Carreto y Miguel Ángel Ochoa se encontrarían actualmente detenidos en incomunicación en una cárcel judicial preventiva, en condiciones de hacinamiento y de insalubridad debido a la deficiencia de las instalaciones. A la luz de estas alegaciones, se han expresado temores por la integridad física de las personas arriba mencionadas.

272. El 5 de abril de 2004, la Representante Especial, junto con el Relator Especial sobre la promoción y la protección del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente sobre la situación de **Thelma Peláez**, Fiscal de la Sección de Derechos Humanos del Ministerio Público cuyo caso ya fue objeto de un llamamiento urgente enviado por la Representante Especial el 21 de junio de 2003. De acuerdo con la nueva información recibida, el 11 de marzo de 2004, el vehículo en el cual viajaba Thelma Peláez habría sido perseguido por una motocicleta blanca de marca Honda con una placa de matrícula perteneciente al Ministerio de Defensa Nacional. Los custodios de Thelma Peláez habrían interceptado a los tripulantes de la motocicleta, quienes se habrían identificados como miembros del Ejército de Guatemala. Al inquirir acerca del motivo de la persecución, habrían dicho a los custodios que la fiscal “debería

dejar las cosas en paz.” Se informa además que el mismo 11 de marzo, una pick-up con vidrios polarizados y sin placas de matrícula habría perseguido por más de una hora al vehículo de Thelma Peláez. Se teme que éstos presuntos actos de hostigamiento en contra de Thelma Peláez estén relacionados con su trabajo de investigar, entre otros casos, el asesinato el 11 de junio de 2003 del auxiliar de la Procuraduría de los Derechos Humanos (PDH) de Chimaltenango, José Israel López López y los hechos de 24 y 25 de julio de 2003 durante una manifestación Pro Ríos Montt, organizada por la Frente Republica Guatemalteca, en la cual fueron detenidos varios indígenas.

273. El 22 de abril de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía, envió un llamamiento urgente en relación con la situación del personal de la organización no gubernamental “**¿Donde están los niños y las niñas?**”, y en particular, de **María Isabel Escobar Donis, Ana Morales, María Teresa Soto, Manuel Cedillo y Diego Sunuc**. Según la información recibida, esta organización estaría investigando las circunstancias en que se adoptó a niños, tras separarlos de sus padres, durante la guerra civil de Guatemala. Se informa que altos mandos del ejército estarían implicados en las adopciones. Se informa que los miembros de la organización hubieron sido víctimas de constantes amenazas y hostigamiento. En marzo de 2003, dos empleadas de la organización habrían sido agredidas al regresar de una investigación y las bolsas que contenían grabaciones magnetofónicas y otra información sobre el caso habrían sido robados. En visto del constante hostigamiento, la organización habría sido obligado mudarse las oficinas en cuatro ocasiones a lo largo de 2003. En este contexto y según la información recibida, a mediados de marzo de 2004, Maria Isabel Escobar Donis habría sido interceptada por tres hombres armados cerca de las oficinas de la organización. A punta de pistola, los hombres le habrían exigido entregar sus llaves y habrían llevado el automóvil de la organización. Además, según la información recibida, durante las vacaciones de Pascua, del 8 al 12 de abril, las oficinas de la organización habrían sido asaltadas y además de ordenadores y otros aparatos, habrían sido robados archivos que contenían información sobre la participación de militares en violaciones de derechos humanos durante la guerra civil. Se teme que estos actos de agresión serían una forma de intimidar a los miembros de de la organización, para que abandonase su trabajo de investigar y resolver las adopciones supuestamente ilegales de niños durante la guerra civil.

274. El 14 de junio de 2004, la Representante Especial envió una carta de alegación sobre el supuesto asesinato de **Hugo Oswaldo Gutiérrez Vanegas**, presidente del Comité Protierra de La Pita, en el municipio de Santa Ana, departamento de Petén, el cual lucha por la protección de las tierras ejidales y los derechos de las comunidades de esas tierras. De acuerdo con las informaciones, el Comité Protierra estaría intentando inscribir estas tierras en el registro civil del municipio de Santa Ana, pero hasta la fecha las autoridades no habrían dado marcha a este proceso y el alcalde municipal de Santa Ana habría negado reconocer el Comité Protierra. Según la información recibida, el 5 de junio de 2004, Hugo Oswaldo Gutiérrez Vanegas habría sido asesinado a golpes de machete, en el camino de entrada a la aldea La Pita, al regresar a su hogar tras haber participado en un encuentro de formación. Se informa además que en el mes de abril, Hugo Gutiérrez Vanegas habría sufrido un atentado contra su vida en el mismo lugar y según los informes, el Ministerio Público no habría tomado medidas adecuadas para investigar el incidente. Se teme que el supuesto asesinato de Hugo Oswaldo Gutiérrez Vanegas esté relacionado con su actividad de defensa de los derechos de los habitantes de la comunidad de La Pita.

275. El 15 de julio de 2004, la Representante Especial, junto con la Relatora Especial sobre la violencia contra la mujer y el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía, envió un llamamiento urgente en relación con **los hijos de Margarita Pérez Aguilar y José Elías Juárez**, ambos miembros activos del **Sindicato de Finca María Lourdes**. El Sindicato de Finca María Lourdes vela por los derechos de los trabajadores que habrían sido hostigados por la dirección de la plantación tras presentar una denuncia en 1992 por la despedida ilegal de 47 miembros. De acuerdo con las informaciones recibidas, la hija de 15 años de edad y su hermano de 13 años de edad, estaban lavando ropa cerca de su casa por la tarde del 6 de julio de 2004 cuando dos hombres con el rostro cubierto por pasamontañas los habrían atacado y arrastrado a punta de pistola a un cafetal cercano, donde los habrían atado con su ropa. A continuación, uno de los hombres habría violado a la niña mientras el otro montaba guardia. Los trabajadores de la plantación que buscaban a los niños desaparecidos los habrían encontrado aproximadamente una hora después. Los dos niños habrían sido golpeados. El 7 de julio de 2004, los padres de los niños habrían presentado una denuncia ante el Ministerio Público y la Procuraduría de los Derechos Humanos. En su testimonio, la niña habría identificado al hombre que estuvo montando guardia como el director de la Finca María Lourdes, por su ropa y su comportamiento. El 8 de julio de 2004, el médico forense local habría confirmado que la niña habría sido violada. Aún no se habría dictado ninguna orden de detención en relación con este ataque. Se teme que esta violación pudiera formar parte de las tácticas de intimidación emprendidas por la dirección de la plantación contra los activistas sindicales que habrían emprendido acciones legales contra la plantación. En marzo de 2004, el director de la plantación habría ofrecido una recompensa a cualquiera de los guardias privados de seguridad de la plantación que violara a una mujer relacionada con el sindicato. El 8 de julio de 2004, los abogados que representan a la Finca María Lourdes habrían advertido a otros miembros del sindicato de que serían detenidos si implicaban al director de la plantación en la denuncia de violación.

276. El 19 de julio de 2004, la Representante Especial envió una carta de alegación en relación con la situación de **Erminio Gonzáles** secretario general del Sindicato de Trabajadores de la Municipalidad de Esquipulas y secretario general adjunto de la Federación Nacional de Servidores Públicos. Según la información recibida, el 17 de septiembre 2002, Erminio Gonzáles habría sido despedido de su trabajo como peón de limpieza municipal en la municipalidad de Esquipulas de una forma supuestamente ilegal, junto con otros 41 trabajadores. Se informa que Erminio Gonzáles, junto con sus compañeros, habría reclamado ante el alcalde el pago del bono incentivo que supuestamente nunca habrían recibido. Por tal motivo, habrían presentado una demanda al Juzgado de Trabajo y Previsión de Chiquimula en contra del alcalde por incumplimiento de pago del citado bono. Supuestamente, a partir de esa demanda, el alcalde habría iniciado una serie de hostigamientos y represalias en contra de los trabajadores. Según la información recibida, el 30 de junio de 2004, Erminio Gonzáles habría recibido una amenaza de muerte telefónica en la que un desconocido habría hecho referencia al despedido ilegal “Te recordás de los hechos en Morales, si allá te escapaste, pero, esta noche no escaparás, porque te tenemos vigilantes. Te doy 15 días para que salís de aquí, sino lo haces te quito la vida, viejo serote”. Se teme que esta presunta amenaza de muerte en contra de Erminio Gonzáles pueda estar relacionada con el conflicto en torno a su despedida y en particular por su trabajo de sindicalista en el cual vela por los derechos laborales de los trabajadores municipales.

277. El 2 de agosto de 2004, la Representante Especial envió un llamamiento urgente sobre la información recibida en relación con la seguridad de **Edda Gaviola**, directora del Centro para Acción Legal en Derechos Humanos (CALDH), y de los testigos de la masacre de Plan de Sánchez. CALDH actúa como asesor jurídico de los supervivientes de la masacre de Plan de Sánchez del 18 de julio de 1982, que resultó en la muerte de 268 personas a manos de las fuerzas armadas guatemaltecas. El 29 de abril de 2004, el CALDH habría presentado el caso de Plan de Sánchez ante la Corte Interamericana de Derechos Humanos con la consecuencia de que la Corte habría condenado al Gobierno guatemalteco por la matanza. Según la información recibida, el 14 y 15 de julio, la casa de Edda Gaviola habría sido asaltada. Los asaltantes habrían dejado mensajes intimidatorios y registrado sus documentos personales. El 16 de julio, una de las oficinas de CALDH habría sido asaltada y según la información, los asaltantes habrían robado un ordenador portátil y un teléfono móvil y habrían registrado documentos que contenían información importante sobre el trabajo del Centro. Tras el asalto a la casa de Edda Gaviola, las autoridades habrían incrementado la protección a una presencia policial permanente de 24 horas al día. Sin embargo, las oficinas fueron asaltadas. El 17 de julio de 2004, un testigo de la masacre habría oído una motocicleta que se habría aproximado a su comunidad y a su casa. De madrugada, se encontró una caja que contenía una amenaza de muerte que decía “Pronto serás muerto, por ser testigo de la masacre de Plan de Sánchez y por ser responsable del condena del estado de Guatemala. Esta es tu querido premio pronto serás asesinado. Feliz Aniversario del 18 de julio”. Se teme que estos actos de hostigamiento en contra de Edda Gaviola y la supuesta amenaza de muerte en contra de un testigo de la masacre de Plan de Sánchez puedan constituir un claro intento de intimidar a los supervivientes y al personal del CALDH para que dejen de perseguir a los responsables de las matanzas perpetradas durante los años de conflicto en Guatemala, incluido el caso de Plan de Sánchez. Se teme también que otros empleados del CALDH pueden correr peligro.

278. El 9 de agosto de 2004, la Representante Especial, junto con el Relator Especial sobre la promoción y la protección del derecho a la libertad de opinión y de expresión, envió una carta adicional en relación con la seguridad de los miembros del **Centro para Acción Legal en Derechos Humanos (CALDH)**, y de los testigos de la masacre de Plan de Sánchez. De acuerdo con las informaciones recibidas, durante el mes de julio de 2004, el CALDH y los testigos del Plan Sánchez habrían sido sujetos de una campaña de intimidación y hostigamiento que habría resultado en el allanamiento de la casa de la directora del CALDH y de las oficinas de la sede. El 17 de julio, se habría amenazado de muerte a uno de los testigos de la masacre de Plan de Sánchez. Se informa también que el día 30 de julio, se habrían recibido en la sede de CALDH llamadas anónimas que habrían avisado de la colocación de una bomba en el edificio. Sin embargo, estas amenazas no se habrían cumplido hasta la fecha. Según la nueva información recibida, el 1 de agosto, una nota escrita a mano habría sido dejada en la sede del CALDH de Rabinal, Baja Verapaz, en la cual habría amenazado de muerte al mismo testigo de la masacre de Plan de Sánchez y al personal del CALDH, en particular al vocero, Miguel Ángel Albizures. Se teme que estos nuevos actos de hostigamiento en contra del personal del CALDH y esta segunda amenaza de muerte en contra del mismo testigo del Plan de Sánchez puedan constituir un verdadero intento de intimidar a los supervivientes de la masacre y al personal del CALDH para que dejen de expresarse sobre el masacre y perseguir a los responsables de las matanzas perpetradas durante los años de conflicto en Guatemala. En particular se teme que la vida del testigo y de los empleados del CALDH estén en peligro.

279. El 6 de septiembre de 2004, la Representante Especial, junto con el Relator Especial sobre la promoción y la protección del derecho a la libertad de opinión y de expresión y el Relator Especial sobre la tortura, envió una carta de alegación en relación con **Gerardo Montenegro, Luis Romero, Mynor Tuc, Edwar Morales, Mario Morales, Julio Rodas, Francisco Revolorio y Dervin Revolorio**, periodistas de varios medios de comunicación en Guatemala. Según la información recibida, el 31 de agosto de 2004, estos periodistas habrían sido agredidos por agentes de la Policía Nacional Civil (PNC) durante un enfrentamiento armado entre campesinos y las fuerzas del orden. Los hechos habrían tenido lugar durante el desalojo forzado de más de mil campesinos de la Finca Nueva Linda, Puerto Champerico, departamento de Retalhuleu, al que los campesinos se habrían opuesto. Se alega que los policías habrían golpeado a los periodistas, tirándolos al suelo y pateándolos, y habrían confiscado sus equipos de trabajo, incluso cámaras fotográficas y de televisión. Los agentes de la PNC habrían agredido los periodistas cuando éstos habrían intentado cubrir el supuesto excesivo uso de fuerza con la que la policía habría actuado en contra de los campesinos. En particular, los periodistas habrían intentado filmar como unos policías golpeaban a un campesino gravemente herido. Según se informa, varios policías y campesinos habrían fallecido durante el desalojo, y otros habrían resultado heridos. Se teme que estos actos de violencia en contra de los periodistas puedan estar directamente relacionados con su trabajo de difundir las imágenes de las supuestas violaciones de derechos humanos cometidas por los agentes de la PNC en contra de los campesinos.

280. El 21 de septiembre de 2004, la Representante Especial envió una carta de alegación en relación con la información sobre la seguridad de **Mario Minera**, coordinador del Programa de Fortalecimiento Municipal y Desarrollo Democrático del Centro para Acción Legal en Derechos Humanos (CALDH) en la ciudad de Guatemala. Según la información recibida, el 11 de septiembre de 2004, hacia las seis y media de la mañana, Mario Minero se habría dirigido a la ciudad de Sololá donde habría fijado una reunión con Andrea Barrios, miembro del programa de derechos de las mujeres del CALDH. Mientras se habría dirigido hacia Sololá en un vehículo del CALDH, dos hombres presuntamente armados le habrían encañonado y amenazado de muerte si no obedecía a sus ordenes. Se informa que le habrían obligado a subirse a un vehículo y le habrían secuestrado por un periodo de aproximadamente media hora para luego abandonarlo en una calle de la zona once. Antes de dejarlo en libertad, los asaltantes habrían registrado sus pertenencias personales y llevado los documentos de CALDH, diciéndole que le serían devueltos posteriormente. Se informa también que cuando Andrea Barrios habría llegado al sitio convenido para la reunión, el estacionamiento del Restaurante Parador en la calle Roosevelt, ya se lo habrían llevado a Mario Minero y ella habría notado la presencia de un vehículo extraño y otro sin placas que se habría quedado allí hasta que ella se había ido del lugar. Se teme que estos actos de hostigamiento y acoso en contra de Mario Minero puedan estar directamente relacionados con sus actividades como defensor de derechos humanos y miembro del CALDH. Se teme también que otros empleados del CALDH pueden correr serio peligro dado que la institución ha sido objeto de dos previas comunicaciones con respecto a actos de intimidación e hostigamiento durante el pasado mes de agosto. Las previas comunicaciones fueron enviadas al Gobierno el 2 de agosto y el 9 de agosto 2004 conjuntamente con el Relator Especial sobre el derecho a la libertad de opinión y de expresión

281. El 7 de octubre de 2004, la Representante Especial, junto con la Relatora Especial sobre los derechos humanos de los migrantes, envió un llamamiento urgente sobre el allanamiento y robo en las oficinas del **Centro de Atención al Migrante (CAM)**, organización dedicada a

ofrecer ayuda humanitaria a la población migrante en Guatemala. Según las informaciones recibidas, el 20 de septiembre de 2004, el equipo de oficina del CAM (ordenadores personales, teléfonos, fax y cámaras fotográficas) habrían sido sustraído y sus archivos destruidos. La fuente afirma que el allanamiento de las oficinas del CAM no sería un hecho aislado, sino que formaría parte de una ola de ataques que estarían sufriendo las organizaciones de derecho humanos en Guatemala.

282. El 19 de octubre de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente en relación con la seguridad del personal de **la Procuraduría de Derechos Humanos (PDH) de Coatepeque**, Quetzaltenango, y en particular, el auxiliar Luis Alberto López Batzín. Según la información recibida, el 30 de julio de 2004, la sede de la PDH habría sido avisada sobre la existencia de una bomba que les obligó a suspender una conferencia de prensa en la que se convocaba a la marcha nacional contra la violencia. De acuerdo con la nueva información recibida, el 4 de agosto de 2004, Luis Alberto López Batzín habría sido amenazado de muerte por hombres armados que habrían entrado en la oficina de la PDH. Se informa también que durante los días posteriores a dicho suceso, habría recibido llamadas telefónicas en la oficina amenazando a todos los funcionarios de la PDH y en particular a la familia de Luis Alberto López Batzín. Se alega que la situación se habría agravado de tal manera que el personal de la PDH decidió encerrar la oficina para prevenirse de posibles riesgos mayores. Se teme que estos actos de hostigamiento y las amenazas de muerte en contra de Luis Alberto López Batzín y el personal de la PDH puedan estar relacionados con ciertos casos actualmente a cargo de la Procuraduría, mismos en los que podrían estar involucrados grupos armados ilegales de la zona.

283. El 28 de octubre de 2004, la Representante Especial envió un llamamiento urgente en relación con la seguridad de **Mario René López Sagastume**, representante del Procurador de los derechos humanos de Guatemala en la Auxiliatura de Escuintla. Según las informaciones recibidas, el 14 de septiembre de 2004 a las 20.00 horas aproximadamente, el auxiliar departamental Mario René López Sagastume habría recibido una amenaza anónima por teléfono en la Auxiliatura, en la que le habrían dicho ‘ya te controlamos’. El 17 y el 19 de septiembre de 2004, habría recibido otras llamadas anónimas en las que una persona con voz masculina se reía y le habría amenazado de nuevo. Se informa que durante el mes de octubre de 2004, Sr. López Sagastume habría recibido varias llamadas anónimas amenazándole de muerte. De acuerdo con los informes recibidos, el 5 de octubre, hacia las nueve de la tarde, el realizador de la llamada le habría dicho “ya te tenemos en la lista y te vas a morir, hijo de la gran puta no te metas a mierdas”. El 8 de octubre, hacia la misma hora habría recibido otra llamada en que le habrían dicho “te vas a morir”, y el día siguiente hacia medianoche, le habrían dicho en una nueva llamada que “te vas a morir, deja de meterte a lo que no te importa ya conocemos lo que haces hijo de puta”. Se informa también que Erwin Barrientos, investigador de la Auxiliatura de Escuintla, mientras mantenía una conversación telefónica con un funcionario de la Misión de las Naciones Unidas de Guatemala, ambos habrían entendido sonidos extraños y los aparatos se habrían quedado mudos indicando tal vez la posibilidad de una intervención telefónica por desconocidos. Se teme que estas amenazas en contra de Mario René López Sagastume y la presunta intervención telefónica de los aparatos de la Auxiliatura en el departamento de Escuintla puedan constituir un claro intento de impedir su trabajo de defensor de derechos humanos. Se teme también que estos actos de intimidación puedan estar relacionados con ciertos casos llevados por la Auxiliatura en contra de agentes y oficiales de la Policía Nacional y otros

casos en los que pueden estar involucrados narcotraficantes. Estos hechos han hecho que la Institución del Procurador solicite seguridad permanente en la sede de la Auxiliatura, la que esta siendo proporcionada por un agente de la Policía Nacional Civil con puesto fijo.

### **Comunicaciones recibidas**

284. Por carta fechada el 28 de junio de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 20 de enero de 2004 con respecto al caso de **Bruce Harris**, el director de Caza Alianza. El Gobierno informó que el 30 de enero de 2004, el citado ciudadano habría sido absuelto de las acusaciones en su contra por el Tribunal Duodécimo de Sentencia Penal. La denunciante seguirá con las acusaciones de difamación, calumnia e injuria en la Sala Décima de la Corte de Apelaciones.

285. Por carta fechada el 13 de octubre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial le 5 de abril de 2004 referente a la situación de **Thelma Inés Peláez Pinelo de Lam**. Según la Policía Nacional Civil, habría brindado medidas de seguridad a la afectada, y en la actualidad, lo habría asignado seis agentes uniformados de la PNC a la casa de su progenitora. En cuanto a la Fiscalía, una investigación habría sido iniciada, tras de la cual habría solicitado al Servicio de Investigaciones Criminalísticas de la Policía Nacional Civil y al Director de Investigaciones Criminalísticas del Ministerio Público la designación de las personas para realizar la investigación respectiva. Asimismo, habría solicitado al Ministerio de la Defensa información sobre los presuntos sindicados, y al Superintendencia de Administración Tributaria-SAT información sobre el vehículo presuntamente utilizado en la persecución contra la agraviada. El Gobierno informó igualmente que no estaría necesario que la citada ciudadana sea entrevistada por el Servicio de Investigaciones Criminalísticas de la Policía Nacional Civil y que la identificación del vehículo notado en la denuncia sería suficiente. El 3 de agosto del 2004, la afectada habría tenido una entrevista con la Comisión Presidencial por medio de la cual habría manifestado que se le siguen brindando las medidas de seguridad. El Gobierno declaró seguir atento al resultado de las investigaciones e informar oportunamente a la Representante Especial.

286. Por carta de fecha del 27 de enero de 2005, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 14 de junio de 2004 relativa a **Hugo Oswaldo Vanegas Gutiérrez**. Según el Gobierno y la oficial que lleva el caso, fue más probable que la muerte habría sido un crimen pasional, y no por su liderazgo del Comité Protierra de La Pita. El Gobierno informó que el caso se encuentra en fase preparatoria de investigación, y por lo momento, habrían realizado los allanamientos respectivos y las declaraciones de los testigos. Una entrevista con la hija del difunto confirmó que él habría sido víctima de varios actos de hostigamiento y amenazas de muerte en meses precedente a su asesinato. En la actualidad, la orden de aprehensión en contra del sospechoso se encuentra pendiente de verificar, por que no hay nadie que identifique al sindicado.

### **Observaciones**

287. The Special Representative would like to thank the Government for its responses, but regrets the absence of replies to several other communications sent. She considers that the Government's explanations with regard to the case of Mr. Harris solve the concerns raised in the

communication. She also welcomes the steps taken to protect the physical safety of Thelma Inés Peláez Pinelo de Lam. In connection with the death of Hugo Oswaldo Vanegas Gutiérrez, the Special Representative intends to monitor closely the ongoing investigation and requests that the Government inform her of its progress. The Special Representative remains deeply concerned at the security of human rights defenders carrying out their legitimate work in Guatemala. She refers to her main report (E/CN.4/2005/101) for a detailed analysis of the trends in the situation of human rights defenders in Guatemala and for her observations.

## Haiti

### Communications envoyées

288. Le 13 février 2004, la Représentante spéciale, conjointement avec la Présidente-Rapporteur du groupe de travail sur la détention arbitraire, a envoyé une lettre d'allégation concernant l'arrestation présumée de **Kettly Julien**, coordinatrice de l'Institut mobile d'éducation démocratique (IMED), partenaire de Haïti solidarité internationale (HSI) travaillant à la prise en charge de victimes de violence de tous bords et à la documentation de leur cas. Selon les informations reçues, Kettly Julien aurait été arrêtée le 6 février 2004 vers midi alors qu'elle était en réunion avec quatre autres personnes. Le mandat d'arrêt pour « complot contre la sûreté de l'Etat » n'aurait été rédigé qu'à posteriori sous la pression de membres de la Brigade d'intervention rapide. Kettly Julien serait actuellement détenue à la police « antigang » de Port-au-Prince. Des craintes ont été exprimées que l'arrestation de Kettly Julien n'ait pour but de faire obstruction à ses activités en faveur des droits de l'homme, en particulier l'assistance aux victimes de violence, la distribution de médicaments et la documentation de cas de violations présumées.

289. Le 4 août 2004, 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 un appel urgent concernant **M. Jean-Claude Bajoux** et **Mme Sylvie Bajoux**, responsables du Centre œcuménique des droits de l'homme (CEDH), une organisation de défense des droits de l'homme basée à Port-au-Prince, en Haïti. Un appel urgent a été envoyé le 22 juillet 2002 par la Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Rapporteuse spéciale sur les exécutions sommaires, arbitraires et extrajudiciaires. Selon les informations reçues, vers 3 heures, dans la nuit du 1<sup>er</sup> au 2 août, des hommes armés auraient tiré à deux reprises sur le domicile de M. et Mme Bajoux. Prévenue à 3 h 20, la police scientifique ne serait venue constater les faits que vers 10 heures du matin. L'attaque visant les responsables du CEDH intervient après le cinquième Forum pour la réforme de la justice pénale dont M. Jean-Claude Bajoux est le porte-parole et alors qu'une délégation de la FIDH, qui aurait particulièrement bénéficié de l'aide du CEDH dans l'organisation de sa mission, est actuellement présente en Haïti. Des craintes ont été exprimées que cette attaque ne soit en relation avec les activités de défense des droits de l'homme et en particulier leur participation active au Forum pour la réforme de la justice pénale. Ces craintes sont d'autant plus vives que M. et Mme Bajoux auraient déjà fait l'objet d'attaques et de menaces en raison de leur action en faveur des droits de l'homme en Haïti. En particulier, en octobre 2003, ils auraient été attaqués par des hommes armés au moment où ils rentraient chez eux et, en juillet 2002, leur

résidence aurait été prise d'assaut par des hommes qui, sous la menace d'armes de poing, auraient séquestré Mme Sylvie Bajoux et quatre de leurs employés présents.

290. Le 22 octobre 2004, la Représentante spéciale, 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 les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé un appel urgent concernant la situation de **Rénan Hédouville**, avocat et secrétaire général du Comité des avocats pour le respect des libertés individuelles (CARLI), et de Mario Joseph, avocat travaillant pour le Bureau des avocats internationaux. Rénan Hédouville et Mario Joseph travailleraient à la défense de personnes dont les droits fondamentaux auraient été violés par l'armée haïtienne entre 1991 et 1994, et notamment en faveur des familles des victimes du massacre de Raboteau en avril 1994. En août 2004, le CARLI aurait notamment protesté contre l'acquittement d'officiers de l'armée qui auraient été impliqués dans le meurtre en septembre 1993 d'Antoine Izméry. Mario Joseph représenterait par ailleurs des partisans notoires du parti de l'ex-président Aristide, le parti Famille Lavalas, qui auraient récemment été emprisonnés sans charge. D'après les informations reçues, tous deux seraient actuellement menacés de mort s'ils ne cessent leurs activités de défense des droits de l'homme et s'ils persistent à accuser d'anciens officiers de l'armée. D'autres membres du CARLI, parmi lesquels Marie Nadia Charles, directrice exécutive, Morisseau Jean Rony, avocat, et Carline Séide, qui avait reçu l'aide de l'organisation, seraient contraints de vivre dans la clandestinité en raison du harcèlement dont ils feraient l'objet.

### Observations

291. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications.

## Honduras

### Comunicaciones enviadas

292. El 19 de abril de 2004, la Representante Especial, junto con el Relator Especial sobre la promoción y la protección del derecho a la libertad de opinión y de expresión, el Relator Especial sobre la tortura y la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente en relación con **Sara Saucedo Flores**, cuyo hijo, **Darwin Roberto Saucedo Flores**, habría sido detenido y sometido a malos tratos en varias ocasiones, amenazado de muerte y ejecutado sumariamente el 17 de febrero de 2002 en el barrio de Colonia La Trinidad, en Comayagüela en la ciudad de Tegucigalpa. El caso de Darwin Roberto Saucedo Flores fue el objeto de una comunicación el 8 de abril de 2004 por el Relator Especial sobre la tortura. De acuerdo con la nueva información recibida, Sara Saucedo Flores habría denunciado a dos agentes a los que acusa de ser responsables del homicidio de su hijo. Además habría criticado abiertamente a las autoridades por no llevar a cabo una investigación adecuada sobre el caso de su hijo. Dicho caso habría sido asignado al Juzgado de Letras Segundo de lo Criminal para que se iniciaran procedimientos judiciales. Desde que habría interpuesto su denuncia, Sara Saucedo Flores habría sido repetidamente intimidada. El 12 de abril de 2004, habría recibido una amenaza de muerte anónima en su lugar de trabajo, en la ciudad de Tegucigalpa. Según indican los informes, el 17 de marzo de 2004, cuando Sara Saucedo Flores

se dirigía a su trabajo, el taxi en el que viajaba habría sido golpeado por un automóvil en el que viajaban dos personas. Sara Saucedo Flores habría reconocido al pasajero como el hombre que anteriormente la habría acosado desde otro automóvil. Además, según la información recibida, en enero de 2004, Sara Saucedo Flores habría encontrado tres casquillos de bala en su taquilla de su lugar de trabajo. Habría denunciado todas las amenazas y los actos de intimidación al Ministerio de Seguridad Pública de Honduras.

293. El 8 de junio de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente en relación con **José Idalecio Murillo**, líder de la Coordinadora Regional de Resistencia Popular (CRRP), una organización de defensa de los derechos humanos y del medio ambiente basada en el departamento de Intibucá, y varios activistas del Consejo Cívico de Organizaciones Indígenas Populares (COPINH). De acuerdo con las informaciones recibidas, el 27 de mayo de 2004, cuatro desconocidos habrían disparado contra la casa de José Idalecio Murillo. Los informes indican que el líder de la CRRP habría denunciado este caso ante la Fiscalía y la Dirección General de Investigación Criminal (DGIC). Otros miembros del CRRP también habrían sido amenazados de muerte durante las últimas semanas. Se teme que estas amenazas estén vinculadas con la campaña realizada por el CRRP contra la explotación maderera en la zonal central del país y contra la presunta corrupción del gobierno local. Se informa además que varios activistas del COPINH, una de las organizaciones más importantes del CRRP, habrían sido agredidos por sus esfuerzos por proteger el entorno natural de la zona de explotación por parte de las empresas madereras. El 19 de mayo de 2004, unos activistas del COPINH habrían bloqueado camiones y confiscado la madera que transportaban hasta el departamento de La Paz. El 20 de mayo de 2004, un hombre habría entrado en las oficinas del COPINH y habría amenazado a las personas presentes. Habría preguntado "¿con qué derecho me robaron mi madera?" Al salir, habría gritado "a los tres los voy a matar". El 29 de mayo de 2004, una bala de 9mm habría sido encontrada en la puerta de entrada del COPINH. Estos hechos habrían sido denunciados ante la DGIC, el Comisionado Nacional de Derechos Humanos (CONADEH) y la Fiscalía, pero se teme que la Fiscalía, según los informes, habría rechazado la denuncia. Las amenazas contra activistas del COPINH ya fueron objeto de un llamamiento urgente enviado por la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, el Relator Especial sobre la tortura, la Representante Especial, 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 el 8 de octubre de 2003.

294. El 11 de junio de 2004, la Representante Especial, junto con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente sobre la situación de **Andrés Pavón**, presidente del Comité para la Defensa de los Derechos Humanos en Honduras (CODEH), organización independiente de derechos humanos. Según la información recibida, Andrés Pavón habría acusado al Gobierno de violación de derechos humanos, negligencia y negación de justicia a raíz de la muerte de más de 100 personas, ocurrida durante un incendio en la prisión de San Pedro Sula el 17 de mayo de 2004. Según los informes, durante el incendio, se habría mantenido a los jóvenes encerrados adentro y no se les habría permitido escapar. En este contexto y según la información recibida, desde finales de mayo 2004 Andrés Pavón habría recibido cuatro llamadas telefónicas amenazadoras, dos en su teléfono móvil y dos en el teléfono de su oficina en las cuales el autor le habría dicho que iba a "acabar con los

defensores de mareros.” También se informa que durante la última semana de mayo, se habría visto un automóvil con los cristales tintados delante de la casa en la que Andrés Pavón pasa los fines de semana, a unos 45 minutos de Tegucigalpa. Se informa además que Andrés Pavón habría sido atacado verbalmente en la televisión y la radio. Durante un programa de radio nacional, tanto un miembro del personal de la radio como ciudadanos comunes habrían dicho que Andrés Pavón debería recibir un tiro por “defender a delincuentes” y en un programa de la televisión nacional habrían sugerido que se matara al hijo de Andrés Pavón o a otro familiar cercano para ver si seguía con su trabajo. Frente a esta situación, el 29 de mayo Andrés Pavón habría pedido medidas cautelares a la Comisión Interamericana de Derechos Humanos. Se teme que estas amenazas contra Andrés Pavón estén relacionados con su actividad de derechos humanos, y en particular la de pedir una investigación por la muerte de más de 100 reclusos durante el incendio en la prisión de San Pedro Sula.

295. El 12 de agosto de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió una carta de alegación sobre varios activistas del **Consejo Cívico de Organizaciones Indígenas Populares (COPINH)**, basado en el departamento de Intibucá. Durante el mes de mayo de 2004, habrían sido agredidos por sus esfuerzos por proteger el entorno natural de la zona de explotación por parte de las empresas madereras. Además se informe que el 27 de mayo de 2004, cuatro desconocidos habrían disparado en contra de la casa de José Idalecio Murillo, líder de la CRRP. Habría denunciado este caso ante la Fiscalía y la DGIC. Otros miembros del CRRP también habrían sido amenazados de muerte. Se teme que estas amenazas estén vinculadas con la campaña realizada por el CRRP contra la explotación maderera en la zonal central del país y contra la presunta corrupción del gobierno local.

296. El 4 de noviembre de 2004, la Representante Especial, junto con el Relator Especial sobre la tortura, envió un llamamiento urgente en relación con el **Centro de Prevención, Tratamiento y Rehabilitación de las Víctimas de la Tortura y sus Familiares (CPTRT)**, organización no gubernamental de Honduras. Según las alegaciones recibidas el 26 y el 27 de octubre de 2004, las oficinas del CPTRT fueron destruidas. Los archivos y papeles fueron revueltos, amenazas de muerte contra el personal inscritas en las paredes, y varios libros en forma de cruz fueron colocados en el piso de la oficina del director. Después de un incidente similar en mayo de 2003, la organización tuvo que cambiarse a sus locales actuales. Según los informes, el ataque está relacionado con el apoyo de las organizaciones a una campaña reciente sobre la independencia del sistema judicial del Ministerio de Seguridad.

### **Comunicaciones recibidas**

297. Por carta fechada el 28 de junio de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 19 de abril de 2004 con información referente a la muerte de **Darwin Roberto Saucedo Flores**. El Gobierno informó que la unidad especial sobre la muerte de menores habría iniciado una investigación, a través de la cual se confirmó que los presuntos responsables forman parte de los integrantes de la pandilla “MS” que habrían operado en la Colonia Bella Vista de Comayagua. No obstante, el caso no se habría presentado ante la Fiscalía del Ministerio Público por falta de testigos.

298. Por carta fechada el 30 de junio de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 11 de junio de 2004 con respecto a la seguridad de **Andrés Pavón y su familia**. El Gobierno, conforme con las recomendaciones de la Comisión Interamericana de los Derechos Humanos, habría otorgado varias medidas cautelares para la seguridad de Andrés Pavón y su familia, entre ellas, un patrullaje de protección, un teléfono celular mediante el cual podría comunicar con el personal de la Policía Nacional. El Gobierno informó que la Ministería de Seguridad está concluyendo unas investigaciones, los resultados de que serán remitidas a la mayor brevedad posible.

299. Por carta fechada el 18 de octubre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 12 de agosto de 2004 referente a las varias denuncias de miembros del *Consejo Cívico de Organizaciones Indígenas Populares* (COPINH). El Gobierno confirmó que los afectados habrían presentado unas denuncias ante el Ministerio Público e informó que el procedimiento investigativo se encuentra en etapa preliminar y continuará con el objetivo de determinar la verdad sobre las denuncias presentadas. Con respecto a la denuncia interpuesta por el Sr. Murillo Mejía, esta fue totalmente investigada y remitida al Ministerio Público. Sin embargo el ofendido habría desautorizado a la Fiscalía General para que ejercitara la acción penal pública por tratarse de un delito de orden público a instancia, y como consecuencia se ordenó el archivo administrativo del caso.

### **Observaciones**

300. The Special Representative thanks the Government for its responses. She welcomes the positive steps taken by the Government. In the case of Darwin Roberto Saucedo Flores, she welcomes the initiating of an investigation but remains concerned by the fact that the absence of witnesses resulted in no charges being pressed. She commends the Government for complying with the request for precautionary measures by the Interamerican Commission on Human Rights in the case of Andrés Pavón and looks forward to being informed about the findings of the investigation. Despite these positive developments, the Special Representative remains concerned by the level of impunity enjoyed by the perpetrators of these crimes.

### **India**

#### **Communications sent**

301. On 3 February 2004, the Special Representative sent a letter of allegation about the alleged killing of **Sarita and Mahesh Kant**, two land rights activists in India. According to the information received, on 24 January 2004 at 7 p.m., Sarita and Mahesh Kant were allegedly killed as they were travelling by bike from Shabdo village to the Fatehpur Block Resource Centre. It is reported that they were stopped by a group of heavily armed men, suspected to be members of a local gang, and shot at point blank range. Sarita reportedly died immediately and Mahesh died later from the gunshot wound. According to the information received, Sarita and Mahesh Kant had been working with the local community of Shabdo village to achieve sustainable and equitable use of land resources. Their work reportedly involved reclaiming common land that had been taken by powerful gangs. Concerns have been expressed that these killings may be in reprisal for their work in the defence of land rights. Concerns are heightened by reports that the

local mafia had allegedly already threatened both activists, who had reportedly refused to give up their work.

302. On 18 June 2004, the Special Representative, together with the Special Rapporteur on violence against women and the Special Rapporteur on the sale of children, child prostitution and child pornography, transmitted an urgent appeal regarding the situation of **Kailash Satyarthi**, an activist for the abolition of child labour and chairperson of Global March Against Child Labour and Global Campaign for Education. According to the information received, on 15 June 2004, Kailash Satyarthi, accompanied by four parents who claimed that their daughters were being held in bondage in the Great Roman Circus in Colonel Tehsil, Gonda district in Uttar Pradesh, met the Sub-Divisional Magistrate, the Police Superintendent and media representatives in order to conduct a rescue operation at the circus. According to information received, the circus uses these children as well as many other minor girls for labour and keeps them in bondage. It is reported that in the presence of the Magistrate and the Police Superintendent, the owner of the circus threatened Kailash Satyarthi at gunpoint, and with other members of the circus, attacked him and the parents with iron rods and knives. They reportedly managed to escape, despite attempts by the circus owner and the members of the local administration to block the exit. Kailash Satyarthi was reportedly taken to hospital in Lucknow, where he was treated for head injuries and is reported to be in a stable condition. It is reported that despite confirmation from the administration of Uttar Pradesh that they would undertake action to release the children from the circus and despite the presence of members of this administration during the rescue operation, no action has been taken. Concern is expressed that Kailash Satyarthi has been targeted for his work to defend children's rights and promote the abolition of child labour.

303. On 15 September 2004, the Special Representative, together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Special Rapporteur on torture, sent an urgent appeal concerning **Umakanta Meitei**, an indigenous and human rights defender from Manipur. According to the allegations received, on 9 September 2004 at approximately 2.30 p.m., he was arrested without charge by a Manipur police commando of the Central Reserve Police Force, Indian Reserve Battalion, as he was leaving his residence. After being threatened with a gun and blindfolded, he was beaten and taken to jail. He suffered injuries to his head, legs and chest. Umakanta Meitei was reportedly released the same day at approximately 7.30 p.m. In view of the allegations of detention and ill-treatment, concern is expressed that he was targeted for his work as a human rights defender and may be at risk of torture or other forms of ill-treatment.

304. On 17 September 2004, 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 regarding members of the **Jangipara branch of the Association for Protection of Democratic Rights (APDR)**, a human rights organization in West Bengal working for the promotion of democratic rights. According to the information received, on 21 August 2004, human rights defenders from the APDR who had assembled for a peaceful street meeting in Hooghly to protest alleged State repression, were reportedly attacked at approximately 4.40 p.m. by 50 or 60 local members of the Communist Party of India (CPIM). It is alleged that they the human rights defenders were punched, beaten with poles, kicked and verbally abused. Sources indicate that although a number of people participating in the meeting allegedly rushed to a police station to seek help, none of the police officers posted nearby came to stop the violence or

to arrest the perpetrators. It is reported that Sri Amitadyuti Kumar, vice-president of APDR, and Gautam Munshi, treasurer of the Hooghly District Committee, were among the alleged victims who were later treated in Walsh Hospital, Srirampur. Concern has been expressed that the alleged attack on members of the APDR was made to prevent their protest against human rights violations reportedly carried out by the State.

### **Communications received**

305. By letter dated 23 September 2004, the Government replied to the communication sent by the Special Representative on 15 September 2004 regarding an allegation concerning **Umakanta Meitei**. The Government of India wished to express its disagreement with the term “indigenous” human rights defender, which it believes suggests that the Government recognizes a separate category of its citizens as “indigenous” people. Similarly, the Government requested an elaboration of the criteria on which an individual is termed as a “human rights defender”. The Government promised to make every effort to investigate the allegations on receipt of the necessary clarifications.

### **Responses received to communications sent by the Special Representative in previous years**

306. By letter dated 24 February 2004, the Government replied to an urgent appeal sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions on 15 September 2003 concerning **Teesta Setalvad, Rais Khan Azeekhan Pathan and Suhel Tirmizi**. The Government informed that the State Government of Gujarat has provided round-the-clock police protection for Mr. Pathan with effect from 16 September 2003. When Mr. Pathan visits other parts of the State, concerned authorities will arrange for his protection, provided that he gives details of his programme in advance. According to the Government, round-the-clock police protection has been provided for Mr. Tirmizi. On 16 September 2003, Mrs. Setalvad was requested, to inform the authorities about her programme during the visit to Ahmedabad well in advance, so that they may arrange for suitable police protection.

307. By letter dated 7 July 2004, the Government replied to the urgent appeal sent on 29 July 2003. The Government informed that, on 7 July 2003, Mr. Ningthoujam Mangoljao, managed to escape from the police. On 8 July 2003, he was found dead. A team of doctors conducted a post-mortem, which indicated injuries that Mr. Mangaljao sustained while escaping. According to the Government, the post-mortem did not suggest any torture by the police. The Government stated that, on 12 July 2003, Dr. **Lamabam Pardesi**, gave a press statement concerning the alleged killing of Mr. Mangaljo. Hence he was summoned to appear at the Lamphel Police Station on 13 July 2003 to establish whether he could give any factual evidence not known to the investigating officer. According to the Government, Dr. Pardesi could not provide any material evidence to substantiate the allegations of custodial killing. For similar reasons as mentioned above, the Lamphel Police Station also summoned Dr. **Debabrata Roy Laifungbam** on 14 July 2003. The Government stated that he was summoned under U/s 160 of the Criminal Procedure Code, not U/s 166 as referred to in the communication sent by the Special Representative. Dr. Laifungbam had at the time not responded to the summons. According to the Government, the summons were not related to the press statement by Dr. Laifungbam as referred to in the communication sent. The Government stated that the summons issued by the police U/s 160 of the Criminal Procedure Code for Dr. Pardesi and Dr. Laifungbam to appear before the O/C Lamphel Police Station for

examination as witnesses in the case was a natural step and could not be construed as a violation of their human rights.

### **Observations**

308. The Special Representative thanks the Government for the responses received and hopes remaining ones will be forthcoming. In the case of **Umakanta Meitei**, a follow-up to the response was being drafted at the time of the report. She hopes dialogue can be pursued in respect to these issues. She wishes to reiterate her concerns, in particular, the allegations of ill-treatment and possible torture of human rights defenders by various members of the police force. She also notes with regret the level of impunity enjoyed by the suspected perpetrators of these crimes.

## **Indonesia**

### **Communications sent**

309. On 27 January 2004, the 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 **Husni Abdullah**, age 26, and **Mahyeddin**, age 23, members of the **People's Crisis Centre (PCC)**, an organization which provides humanitarian assistance to internally displaced persons in Nanggroe Acre Darussalam province, who are reportedly being detained by police in Nanggroe Acre Darussalam. According to the information received, on 15 December 2003, Husni Abdullah was arrested by members of the North Aceh District Military Command (Kodim 0103) at the PCC Office in Meunasah Mesjid Cunda Village. At the time of his arrest, Husni Abdullah was reportedly beaten and interrogated by soldiers and his office searched. He was allegedly initially held in Kodim 0103 and transferred around 3 January 2004 to North Aceh District Police Station (Kapolres), where he has reportedly been denied access to his family or lawyers. He has reportedly lost some teeth as a result of being beaten with rifle butts while in detention. According to the information received, Mahyeddin was also arrested by officers from Kodim 0103 in Sawang Kupala Cunda village on 15 December 2003. He was reportedly also held at Kodim 0103 before being transferred to Lhokeseumawe prison, where he is believed to have no access to his family and only limited contact with his lawyers. It is alleged that he has been beaten while in custody. Both men have allegedly been accused by the police of being members of the Free Aceh Movement. However, fear has been expressed that Husni Abdullah and Mahyeddin may have been targeted for their human rights work. Concern has been expressed that they may be at risk of torture or other forms of ill-treatment in view of their reportedly denied or restricted access to their lawyers and relatives and in view of allegations according to which they have been beaten while in custody.

310. On 25 February 2004, the 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 **Masrizal**, **Iwan Irama Putra**, a human rights defender age 27, **Harlina**, a student and human rights defender aged 2, **Nova Rahayu**, a student and human rights defender age 23, **Nursida**, a student and human rights

defender age 22, and **Syafruddin**, a human rights defender. According to information received, on 19 February 2004, Police Mobile Brigade (Brimob) officers arrested Masrizal at his home in the Nanggroe Aceh Darussalam provincial capital, Banda Aceh, reportedly on suspicion of being a member of the armed opposition Free Aceh Movement (GAM). He is believed to be held in Banda Aceh Regional Police Station. On 22 February, at around 12.30 p.m., Iwan Irama Putra was reportedly arrested by Brimob at a friend's home in Banda Aceh, and has not been seen since. He is a member of the Network of Linge Students (IMPEL), based in Central Aceh District, whose work has included providing assistance to internally displaced people. He was an acquaintance of Masrizal, and the two arrests are believed to be linked. Early on 23 February, police allegedly made a series of raids on the homes of members of the Acehnese Democratic Women's Organization (ORPAD), which carries out activities for women's education and empowerment in Banda Aceh. They reportedly detained Harlina, a member of IMPEL and ORPAD, at around 4 a.m. at her home. She was reportedly beaten before being taken away in a Kijang minivan. She was reportedly last seen approximately two hours later, when police took her with them to the house of another activist, who was not at home at the time. On the same date, Nursida and Nova Rahayu, both members of ORPAD, were reportedly arrested at Nursida's home at around 6 a.m. They were reportedly taken away in two trucks. It is reported that the police and the military have denied having any information on the three women's whereabouts. At around 5 a.m. the same day, police reportedly arrived at the student dormitory looking for Syafruddin, an activist with the educational and human rights organization Student Solidarity for the People (SMUR). They did not find him, but reportedly questioned and beat other residents of the dormitory. Syafruddin returned to the dormitory a few hours later and was reportedly beaten before being taken away by the police.

311. On 2 April 2004, the 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, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Bestari Raden**, a 55-year-old environmental and pro-democracy activist. On 23 March, he was allegedly arrested by soldiers from the Aceh Tenggara District Military Command (Kodim 0108) in Lawe Pakam Village, Babul Makmur Subdistrict, Aceh Tenggara District, Nanggroe Aceh Darussalam Province. It is alleged he is now held in Kodim 0108 and is undergoing intensive interrogation. Bestari Raden is reportedly the coordinator of the Environmental Caucus (Kaukus Lingkungan), whose activities include advocacy and environmental and human rights education. He is reportedly a member of the Indigenous People's Alliance of the Archipelago (Aliansi Masyarakat Adat Nusantara/AMAN), which campaigns for the rights of indigenous peoples. It is reported that Bestari Raden was previously accused of being a leader of GAM. In view of past allegations of torture and ill-treatment in military custody, concern is expressed that Bestari Raden may be at risk of torture or other forms of ill-treatment.

312. On 4 June 2004, 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 concerning the order of expulsion delivered to **Sidney Jones** and **Francesca Lawe-Davies**, respectively Southeast-Asia director and analyst at the Jakarta office of the International Crisis Group (ICG), on 1 June 2004. According to information received, Sidney Jones and Francesca Lawe-Davies were ordered to leave Indonesia "immediately" because they were in

violation of immigration laws. The order allegedly follows public statements by the head of the National Intelligence Agency, General Hendropriyono, that ICG reports were "not all true", and "damage the country's image". It is reported that since establishing its Jakarta office in 2000, ICG has published 37 reports and briefing papers on conflict-related issues, including Aceh, Papua, the Jemaah Islamiyah terrorist movement, communal violence and the transition from military to civilian rule. ICG has allegedly regularly criticized the Indonesian authorities about their response to the ongoing activity of the militant group Jemaah Islamiyah, as well as the Government's responsibility for human rights violations during armed conflicts in the provinces of Aceh and Papua. It is feared that the decision to expel Sidney Jones and Francesca Lawe-Davies is directly related, inter alia, to their reports on alleged human rights violations. The decision also raises concerns about the alleged country's measures against critical observers ahead of the presidential election on 5 July. In this respect, it is reported that the Government has announced that it has placed 20 international and local NGOs on a "watch list" as threats to the country's security.

313. On 5 August 2004, 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 question of torture, sent a follow-up letter of allegation concerning Mr. **Muhammad Nazar**, leader of the Aceh Information Referendum Centre (Sentral Informasi Referendum untuk Aceh, SIRA). According to new information received, he was beaten in the face and kicked in the chest on 19 February 2004 while being questioned by police intelligence at the Aceh Regional Police Station (Markas Kepolisian Daerah, Mapolda). He was subsequently denied access to his lawyers and relatives. **Dewi Meuthia**, his wife, was reportedly questioned for six hours at the same police station on 27 February 2004 about her campaign to release Muhammad Nazar and her association with Amnesty International.

314. On 16 August 2004, the Special Representative, together with the Special Rapporteur on the question of torture, sent a letter of allegation concerning Mr. **Muzakir Abdullah**, a 21-year-old volunteer for Kontras Aceh, the Commission for Involuntary Disappearances and Victims of Violence in Aceh. He was arrested at his house in Batee Leusong, Seumirah village, Nisam District of North Aceh, on 16 June 2004 by a group of military personnel. His dead body was reportedly found the next day. It is alleged that his neck was scratched and that he presented wounds all over his body, reported to be the result of torture.

315. On 16 August 2004, the Special Representative sent an urgent appeal concerning **Pemraka (Pemuda Mahasiswa Rakyat ke Aceh; Aceh Humanitarian Volunteer Association)** in Laksana, Banda Aceh. Pemraka is a human rights NGO which assists IDPs and the victims of the conflict in Aceh. According to the information received, on 7 August 2004, Banda Aceh police allegedly raided the Pemraka office located at 2 Kongkol Street, Laksana, arresting two Pemraka aid workers, Asnawi and Fahrizal, along with 11 other individuals from Banda Aceh who were in the office at the time. All were reportedly arrested on the grounds of alleged involvement with GAM and harbouring GAM members. It is reported that the majority of the individuals arrested were victims of war who were receiving medical attention at the general hospital in Aceh. Reports indicate that seven of the civilians were later released due to lack of evidence, however the remaining six individuals from Banda Aceh and the two Pemraka aid workers are still being held for questioning about their alleged involvement with GAM. It was also reported that on 6 August, following an armed contact between Indonesian troops and

GAM in Samalanga subdistrict, Fachrurazi, an Pemraka activist and student of Iskandar Thani College, was arrested by the Brimob of Lyand while he was going to the mountains to rescue a wounded refugee and take him to the nearest local health facility. He has been missing since then. Concerns have been expressed that the alleged disappearance of Fachrurazi as well as the arrests of the Pemraka aid workers, Asnawi and Fahrizal, along with the other eleven civilians have been carried out in an attempt to hinder the human rights activities carried out by the organization.

316. On 3 December 2004, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal concerning Mr. **Munir**, a human rights lawyer, Mrs. **Suciwati**, his wife, and relatives of Mr. Munir living in Malang, East Java. As a lawyer, Mr. Munir represented numerous alleged human rights victims, and he also co-founded the Commission for Disappeared Persons and Victims of Violence (Kontras), a group that has allegedly exposed the abduction by the military of several human rights activists in Jakarta. According to the information received, on 7 September 2004, Mr. Munir died during a flight from Singapore, two hours before arriving at Amsterdam. Mr. Munir was allegedly on his way to the Netherlands to take part in a course on international human rights law at the University of Utrecht. Reportedly, the Netherlands Forensic Institute performed an autopsy, and on 11 November 2004 the Government of the Netherlands transmitted a copy of the forensic report to Indonesia's Foreign Ministry. The report allegedly indicates that Mr. Munir died from excessive levels of arsenic in his body, in particular in his stomach. Furthermore, the report allegedly states that the concentration and location of the arsenic indicates that it had been slipped into the food or drink he had consumed. The information received indicates that, as of 20 November 2004, Mr. Munir's family had not received a copy of the report from the Government of Indonesia. The Indonesian police have allegedly started an investigation into Mr. Munir's death. The information received further indicates that Mrs. Suciwati received a death threat after she demanded, together with relatives of Mr. Munir, an impartial and thorough investigation into his death. On 20 November 2004, Mrs. Suciwati reportedly received a brown box through the post at her home in Bekasi, West Java. It is alleged that the box was filled with a decapitated and dismembered chicken, along with a note stating: "Be careful!!!! Do not connect the TNI [Indonesian military] to the death of Munir. Do you want to end up like this?" Reportedly, she immediately contacted the police, who arrived at her house four hours later. It is also reported that on 9 September 2004, a letter was received by relatives of Mr. Munir in Malang, East Java. The letter allegedly "congratulated" them with his death, stating that Mr. Munir was a traitor and expressing wishes that the spirits of the country's heroes pardoned him. Concern is expressed that the death of Mr. Munir may be a result of his activities to defend human rights, in particular his work as a lawyer and in connection with his activities for the Commission for Disappeared Persons and Victims of Violence (Kontras). Furthermore, concern is expressed that the alleged death threat received by Mrs. Suciwati and the intimidation of relatives of Mr. Munir may be attempts to prevent an impartial and thorough investigation into his death.

### **Communications received**

317. By letter dated 17 June 2004, the Government replied to the urgent appeal sent on 2 April 2004. The Government confirmed the arrest of **Bestari Raden**, and stated among other reasons, it was related to his role in masterminding a rally which degenerated into violence, culminating in the torching of a timber factory. It further informed that Mr. Raden was suspected of

involvement in a number of serious crimes since 1999, including murder, instigation of violence aimed at separatism, subversive activities against the State, threats against public security, arson, kidnapping, and damage to public property. A thorough inquiry into Mr. Raden's activities was being conducted responsibly. The Government stated that all the necessary measures were being taken to ensure the full protection of his rights, and that he had been given due process of law throughout the duration of his detention. According to the reply, allegations of torture and ill-treatment were therefore unfounded. Mr. Raden was at the time in the custody of the South Aceh police headquarters, where he was transferred after one month in the custody of the local Aceh Tenggara district police station following his arrest. The Government stressed that Mr. Raden would on no account be detained for any of the normal activities associated with overt and peaceful support for environmental or democratic causes.

318. By letter dated 25 June 2004, the Government replied to the urgent appeal sent on 4 June 2004. The Government informed that no such thing as an expulsion order was ever issued against **Sidney Jones**. Mrs. Jones' resident's visa expired on 10 June 2004, and the question of whether the Government would extend or not extend the visa was a routine procedure. The Government stated that it was a gross exaggeration to equate the Government decision with an attempt to bridle freedom of speech or restrict civil liberties. It also stated that allegations that the Government reacted negatively to the reports by so-called "critical observers" on the forthcoming president election were grossly exaggerated, and that they intended to make too much out of an administrative decision.

### **Observations**

319. The Special Representative thanks the Government for its replies to her communications. She expresses her hope that replies to her remaining communications will be forthcoming. She reaffirms her grave concerns about the reported attacks, threats and detention of human rights defenders in context of the conflict in Aceh. The Special Representative encourages the Government to review favourably her follow-up request sent on 7 December 2004 for an invitation to conduct an official visit to the country.

## **Iran (Islamic Republic of)**

### **Communications sent**

320. On 8 December 2003, 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 concerning **Shirin Ebadi**, chairwoman of a children rights' organization, the Center of Human Rights Defenders, and the 2003 Nobel Peace Prize Winner. According to reports, on 3 December 2003, Shirin Ebadi received death threats from militia men allegedly linked to the Hezbollah while entering the room of the University of Tehran Azzahra where she had been invited to make a speech on women rights and the right of custody for the mothers. The men reportedly blocked the entrance door, shouting slogans such as "death to Shirin Ebadi", and, according to the information received, she had to hide in the cellar of the university. Fears have been expressed that her life and physical integrity may be at risk.

321. On 29 January 2004, the 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. **Arzhang Davoodi**, an Iranian citizen age 47, engineer and poet, who was reportedly arrested in July or August 2003 in Tehran by members of the security forces after he gave an interview to the BBC about the political corruption in Iran. The authorities have reportedly denied his arrest and detention. It was further reported that since December 2003, Mr. Davoodi would be secretly maintained in solitary confinement in the Evin prison of Tehran where he has allegedly been victim of ill-treatment and torture. As a result, he has reportedly lost his vision in the left eye and is in very poor health condition. Concern has been expressed that Arzhang Davoodi may have been targeted for his activity in the defence of human rights. Further fears for his life have been expressed.

322. On 10 March 2004, 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, sent a follow-up urgent appeal concerning **Arzhang Davoodi**. Mr. Davoodi, who was reportedly arrested after he spoke in a television documentary about political prisoners and the death of the Canadian-Iranian photojournalist Zahra Kazemi, has reportedly been severely beaten in detention and required several hospitalizations. It is reported that following his arrest, he was taken to Evin prison, where he was reportedly held in solitary confinement for approximately three and a half months, during which his relatives had no news about him. According to more recent information received, the lawyer of Arzhang Davoodi was not able to gain access to him for almost a month after his appointment in January 2004 and has never been present when Arzhang Davoodi was interrogated. It is reported that under the Iranian Code of Criminal Procedure, a lawyer's appointment is not official until the client has signed a document to this effect, and lawyers are not permitted to be with their clients at interrogations before they are formally charged. Up to now, it is not known if charges have been brought against Mr. Davoodi, although he is believed to be accused of being a spy, and working with an unspecified "dark organization" (*sazman-e siyah*).

323. On 24 March 2004, the 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 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 a follow-up urgent appeal concerning **Arzhang Davoodi**. According to more recent information received, Mr. Davoodi remains in prison, although it is reported that a US\$ 59,380 bail was paid, as requested by the judicial authorities, to secure his release. It is alleged that the authorities have reportedly refused to release him on the grounds that his file is "not complete". It is also reported that Arzhang Davoodi was tortured and kept in solitary confinement for 100 days while he was held in Section 325, a detention facility run by the Revolutionary Guard in Evin prison. During the winter, for several days he was reportedly kept in a room with the air conditioning turned on all night, making the room even colder. The alleged torture has reportedly left him with a broken shoulder blade, bleeding in his left eye, deafness, a broken jaw and teeth, for which a doctor reportedly assessed that he required treatment of his eyes, ears and teeth, and physiotherapy for his shoulder. The authorities have allegedly provided him with no treatment to date. Further information indicates that on 17 March, Arzhang Davoodi was transferred from Salon 1 of Evin

prison, where he had been detained since his transfer from Section 325 in early March, to Salon 8 of Evin prison, which is reportedly used for people detained for financial offences, and has no medical facilities. It is reported that prison officials refuse to grant him leave to obtain the required medical treatment. Finally, it is reported that since his arrest in July or August 2003, Arzhang Davoodi has been allowed to make phone calls to his lawyer, and to meet with him on one occasion. However, it is reported that his lawyer has not been able to have a copy of his file, and it has not been established whether Mr. Davoodi has been formally charged with an offence.

324. On 24 June 2004, 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 concerning the case of **Ali Al Chaldawi**, a human rights defender who has been working on behalf of the Iranian Arab minority in Khuzestan and in particular on education projects to improve literacy rates among Ahwazi Arab children. According to the information received, Ali Al-Chaldawi was arrested in February 2003 by Iranian security authorities in Ahwaz. He was reportedly held in detention until August 2003 when he was allegedly charged with the “establishment of a library and distributing free text books in Arabic to Ahwazi Arab school children” and sentenced to two and a half years’ imprisonment. It is reported that he appealed his sentencing and on 3 April 2004, the Khuzestan branch of the Iranian Revolutionary Court of Appeals upheld its decision. Concern has been expressed that the alleged sentencing of Ali Al Chaldawi may be aimed at preventing him from carrying out his work in defence of the rights of the Iranian Ahwazi Arabic minority.

325. On 9 July 2004, the 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 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 a follow-up urgent appeal concerning **Akbar Mohammadi**, a student who was arrested in early July 1999 during a demonstration. He was sentenced to death in September 1999 but later his sentence was commuted to 15 years’ imprisonment. He is currently being held at Evin prison. According to the new allegations received, Akbar Mohammadi was subjected to several mock executions during his first year in prison. During that year, he was also subjected to severe ill-treatment. He was handcuffed, suspended by his arms, and whipped on the soles of his feet with electric cables. His beatings allegedly resulted in the loss of 40 per cent of his hearing on his left ear. On one occasion, he was kicked down a flight of stairs and broke his pelvis. He was allegedly denied medical treatment and has been unable to walk comfortably since. In November 2003, Akbar Mohammadi was hospitalized for stomach and kidney problems, including internal bleeding, and possibly a lung infection. It is alleged that although a hospital doctor recommended a hospital stay of one month, he was transferred back to Evin prison after six days. His health is said to have deteriorated since then, as the operation he underwent at that time was reportedly unsuccessful. A medical report prepared by medical officials in Evin prison allegedly states that Akbar requires further medical intervention outside the confines of the hospital and a period of rehabilitation in a suitable environment. Concern has been expressed about his physical and mental integrity if he does not receive prompt and adequate medical treatment. The urgent appeal sent on 9 July 2004 also concerned Akbar Mohammadi’s brother, **Manuchehr Mohammadi**, a member of the Anjoman-e Daneshjuyan va Daneshamuktegan-e Melli (National Association of Students and Graduates). According to the new allegations received, when his mother visited him in Evin prison on 5 September 2003, shortly after he had returned there, his face was badly

bruised, he could hardly walk and told her that he had been tortured. His sentence was extended by two years at the end of November 2003. According to recent reports, Manuchehr Mohammadi is currently suffering from gingivitis and chronic severe bleeding from the gums, which is said to cause him pain when he speaks or eats. Doctors in Evin prison are said to have recommended that he be treated outside the prison. Concern has also been expressed about his physical and mental integrity if he does not receive prompt and adequate medical treatment. Finally, the urgent appeal sent on 9 July 2004 related to information received according to which their relatives have also been subjected to intimidation and harassment for their efforts to seek guarantees for the rights of the two detainees. On 8 July 2003, their father, Mr. **Muhammad Muhammadi**, and their sister, **Simin**, were arrested and taken to Evin prison. Simin was reportedly beaten in front of her father and dragged away. She was held in solitary confinement for 14 days. She was interrogated for several hours every night and asked about the activities of her sister Nasrin, who lives in Europe, and her brother Manuchehr. She was allegedly threatened with further beatings and death. While in custody, she spent five days in prison hospital because of breathing problems. She was released on bail on 22 July 2003. When Simin was in custody, her father was reportedly told that she and he would be severely beaten if he kept asking about her whereabouts. He allegedly suffered a heart attack while kept in solitary confinement. He was then released on bail. It is further reported that more recently, on 28 June 2004, the family of Akbar and Manuchehr Mohammadi were threatened again with unspecified reprisals if they publicly discussed their plight.

326. On 23 August 2004, 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 question of torture, sent a follow-up urgent appeal concerning Mr. **Arzhang Davoodi**. He was arrested in October 2003 after he assisted in the making of a TV documentary in which he criticized the Iranian authorities. According to recent allegations, Mr. Arzhang Davoodi has been in solitary confinement for the two last weeks, during which it is reported that he has not been allowed phone calls or visits from his family and has only been able to meet his lawyer on one occasion, on 15 August. The visit lasted five minutes. On one occasion, he and 22 other detainees were reportedly kept in a room of 24 m<sup>2</sup>, without air-conditioning or water. He is also believed to have been repeatedly subjected to beatings, including more than 500 blows on his left ear. Although a prison doctor made a formal request to the prison authorities that his left ear be operated on as soon as possible, the judge responsible for his case refused, allegedly on grounds that in hospital the detainee would spread the story that he was being treated for injuries caused by torture in detention. As reflected in previous joint urgent appeals, Mr. Arzhang Davoodi was due to be released in March 2004 after his family paid bail. However, he was reportedly told by the judge that the court will not hear his case and that he will not be released until he signs the confession he has been asked to sign. According to the information received, he has not been formally charged yet.

327. On 15 November 2004, the 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 **Omid Memariyan**, a 30-year-old Internet journalist and civil-society activist working on the training and capacity-building of country's developing NGO sector. On 10 October 2004, he was arrested at his office in Tehran. His house was searched by officials of the judiciary and his personal notes and

computer were confiscated. He is being detained without charge at an undisclosed location, although he is believed to be held in solitary confinement, under the jurisdiction of Branch 9 of the Revolutionary Court, in the vicinity of Tehran airport. His family has seen him just once, in a meeting of four minutes duration, which took place at Branch 9 of the Revolutionary Court. Omid Memariyan appeared extremely distressed. He has reportedly refused to exercise his right to appoint a lawyer. In view of his alleged detention in an unknown location, concern is expressed that he may be at risk of torture or other forms of ill-treatment.

328. On 16 November 2004, the 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 question of torture and the Special Rapporteur on violence against women, sent a follow-up urgent appeal concerning Ms. **Mahboobeh Abbasgholizadeh**, an activist for women's rights, editor of *Farzaneh*, a journal for women's studies, and director of the NGO training centre. According to the information received, Mahboobeh Abbasgholizadeh was arrested at her home on 1 November 2004 by order of the Prosecutor General. Since her arrest, she has reportedly been detained and held incommunicado and denied access to a lawyer or family members. To date, no formal charges have reportedly been brought against her but she is being interrogated about her presentations at international meetings, including her address to the Asia Pacific Women's Watch Beijing+10 NGO Forum in July 2004, and her contacts with international women's rights activists. In the light of the reported subject matter of her interrogations and considering the lack of formal charges, concern is expressed that the arrest of Mahboobeh Abbasgholizadeh may be aimed at preventing her from continuing to speak out and publish on women's rights in the Islamic Republic of Iran.

#### **Communications received**

329. By letter dated 10 June 2004, the Government replied to the urgent appeal sent on 29 January 2004, informing that Mr. **Arzhang Davoodi** had been under medical examination by the prison doctors as required. He had been examined by an ophthalmologist for dizziness and headaches while reading, and according to ophthalmologic and optometric advice, he had been provided with glasses. The Government further stated that, as a result of an examination by an otorhinolaryngologist, his left ear has been diagnosed as being slightly impaired, which could be a sign of previous damage. According to the reply, the medical records indicated that no urgent treatment for that ear was required and that it would gradually improve.

330. By letter dated 12 August 2004, the Government replied to the urgent appeal sent on 9 July 2004. The Government confirmed that **Akbar and Manoochehr Mohammadi** are serving their prison term, and stated that they enjoy required medical care and that they go on leave on regular intervals. In its reply, the Government informed that there is no record of any detention of Mr. **Mahmood** and Ms. **Nasrin Mohammadi**, father and sister of the above persons.

331. By letter dated 6 October 2004, the Government replied to the urgent appeal sent on 23 August 2004. The Government informed that Mr. **Arzhang Davoodi** has been charged with activities against the internal security of the State and sentenced to imprisonment. He had been temporarily transferred to Rajae-shahr prison. According to the reply, he had never been in solitary confinement, and he had recently met with his family.

332. By letter dated 20 December 2004, the Government replied to the urgent appeal sent on 15 November 2004. The Government informed that **Omid Memariyan** was detained for participating in the establishment of an association against the internal security of the State, activities against the State and dissemination of false accusations. It stated that he had been released on bail.

333. By letter dated 20 December 2004, the Government replied to the urgent appeal sent on 16 November 2004. The Government informed that Ms. **Mahboobeh Abbasgholizadeh** was detained for her activities against the State and inspiring immoral acts in society. It stated that she had been released on bail.

### **Responses received to communications sent by the Special Representative in previous years**

334. By letter dated 18 May 2004, the Government replied to the letter of allegation sent jointly 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 on 5 December 2003, concerning Mr. **Nasser Zarafchan**. The Government informed that Mr. Zarafchan was sentenced to five years' imprisonment for illegal possession of weapons and disclosure of classified information regarding the trial of the alleged murder of intellectuals. Mr. Zarafchan is serving his term in Evin prison and he meets with his family and attorney on a regular basis. The Government stated that on the occasion of the visit of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to the country, it was impossible to schedule a meeting with Mr. Zarafchan due to the short notice.

### **Observations**

335. The Special Representative thanks the Government for its replies. She welcomes the release on bail of **Omid Memariyan** and **Mahboobeh Abbasgholizadeh**. She refers to her main report to the Commission (E/CN.4/2005/101) for a detailed analysis of the trends in the situation of human rights defenders in the Islamic Republic Iran and for her observations.

## **Iraq**

### **Communications sent**

336. On 1 March 2004, 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 concerning the situation of **Yanar Mohammed**, a journalist campaigning for women's rights in Iraq, head of the Organisation of Women's Freedom in Iraq, which publishes the *Al Nisa* magazine and runs the [www.equalityiniraq.com](http://www.equalityiniraq.com) web site. Recently, Ms. Mohammed has been involved in campaigning against the introduction of the Shariah law in civil matters and advocated the maintaining of a secular law. According to the information received, she has reportedly been receiving threats from Jaysh Al-Sahaba (Army of Sahaba), a militia group based in Baghdad. She reportedly received a first death threat on 31 January 2004. It is reported that the most recent e-mail she received threatened to kill her within a few days and that she was warned that if she published the next edition of her *Equality* newsletter, she would be killed.

Other members of the Organisation of Women's Freedom in Iraq were reportedly also threatened in this message.

### **Observations**

337. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication.

## **Israel**

### **Communications sent**

338. On 21 May 2004, 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, issued a press release and sent a letter of allegation in connection with information received, on 19 May 2004, about a civil demonstration organized by the **residents of Rafah town and refugee camp**. It is reported that thousands of persons marched to protest against a reported operation by Israeli forces, which had been going on since 17 May 2004, to demolish houses in the Tel Sultan area of Rafah and allegedly resulted in the death at least 30 civilians. According to the information received, as the demonstrators were heading towards the Tel Sultan area, the Israeli forces allegedly opened fired at them with heavy artillery, including machine guns and tanks, at the same time as an Israeli Air Force helicopter gunship reportedly fired a missile into the crowd. The assault allegedly resulted in the killing of 10 persons, among which children, and wounding another 50. Six of those killed have been identified as Walid Naji Abu Qamar, age 10, Mubarak Salim Al Hashash, age 11, Mahmoud Tareq Mansour, age 13, Mohammed Talal Abu Sha'ar, age 20, Alla Musalam Sheikh-Eid, age 20, and Fuad Khamis Al-Saqqa, age 31.

339. On 9 August 2004, the Special Representative, 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 Arbitrary Detention, sent an urgent appeal regarding **Abd al-Latif Gheith**, a human rights defender and board chairman of Addameer Prisoner's Support and Human Rights Association, a Palestinian NGO based in Ramallah aiming to bring to an end the torture of political prisoners. According to the information received, on 29 July 2004 Abd al-Latif Gheith was detained after security guards had reportedly stopped him at a military checkpoint and questioned him about the activities and staff of the NGO. It is further reported that on 4 July 2004, the Israeli deputy military commander allegedly issued an order for the six-month detention of Abd al-Latif Gheith. This order was reportedly issued on the grounds of "endangering security" and in the absence of any official charge being brought against him. Concern is expressed that he may be being detained in an attempt to hinder his work with political prisoners, his human rights activities with Addameer as well as his active participation in campaigning against Israel's construction of the Wall in the West Bank and East Jerusalem.

### **Observations**

340. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication.

## Jamaica

### Communications sent

341. On 10 March 2004, the Special Representative, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, transmitted an urgent action regarding a witness known as "**Zepheniah**", as well as members of the community of Burnt Savannah about whom concerns have been expressed after they witnessed the alleged extrajudicial execution of three men by members of the Jamaican Constabulary Force on 2 March 2004. Two conflicting versions of the facts have been brought forward. According to the police, at 9.45 a.m. on 2 March, officers saw a car with several men in it, allegedly "acting suspiciously". They reportedly ordered the car to stop. The police claimed that a shootout followed in which they fired in self-defence, resulting in the death of Evon "Phil" Baker, age 21, Craig Vascianna, age 22, and Omar "Ted" Graham, age 23. Although the police claimed to have recovered one handgun and one sawed-off shotgun on the scene, no police officers were reportedly injured in the incident. However, members of the community of Burnt Savannah vigorously dispute this version. According to a witness known as "Zepheniah", the three men were all shot at point-blank range by the police. Moreover, "Ted", who was a taxi-driver, reportedly asked the police to spare his life, but a policeman known as Clarke reportedly told him that they had to kill him as well since he was a witness and another police officer then allegedly shot him twice. Another witness reported that the police officers then placed the guns subsequently found on the three men at the scene of the crime. According to the information received, witnesses of the killings, who later went to the Frome police station, were all threatened by the police and were afraid to give further statements. For instance, when "Zepheniah" went to the police station with a crowd of people from his community who had demonstrated about the killings, a policeman with badge number 20998 allegedly told him that he would shoot him. Another policeman allegedly cranked up his gun on a close relative of one of the deceased as if he wanted to shoot him. A superintendent was reportedly present but allegedly did nothing about the policeman's action. It is reported that when people were demonstrating in the road, policemen allegedly chased them off the street and fired about twelve shots at them, and that the one known as Clarke mentioned that he had eight men on his list in Burnt Savannah. It is further believed that when the alleged killings occurred on 2 March 2004, Clarke actually wanted to eliminate a key witness in a murder case that has been brought against him in December 2003. In view of the alleged killings and of the several threats received, fears have been expressed for the safety and for the lives of the witnesses to the events.

342. On 6 December 2004, the Special Representative, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, transmitted a letter of allegation regarding individuals and associations defending the rights of gays and lesbians in Jamaica, in particular the members of the human rights organization **JFLAG (Jamaican Forum of Lesbians, All-sexuals and Gays)**. Attention has been drawn to a letter to the editor by the Jamaican Police Federation's Public Relations Officer, published in the *Jamaica Observer* of 25 November 2004. In his letter, which follows the publication on 16 November 2004 of a report by Human Rights Watch entitled "*Hated to death: Homophobia, Violence and Jamaica's HIV/AIDS epidemic*", the Police Federation's Public Relations Officer "condemn[s] the role of these so-called 'human rights' groups to spread lies and deliberately malign and

slander the police force and the government”. He calls on “the Minister of Justice to examine these allegations and slap on sedition charges where necessary to both foreign and local agents of provocation”. In stating that “the Government and the police cannot be held responsible for.... the cultural responses of the population towards gay”, the letter also appears to condone violence against gays and lesbians. This impression is insufficiently dispelled by the assurance that “as law enforcement officers we try our utmost ‘to serve, to reassure and to protect’”. The letter to the editor raises particular concerns against the background of reported attacks and threats against persons defending the rights of homosexual men and women in Jamaica. According to the information received, on 9 June 2004, Brian Williamson, a well-known gay rights activist, was murdered at his home. Within an hour after his body was discovered, reportedly a crowd gathered outside the crime scene. A smiling man called out, “Battyman [homosexual] he get killed!” Many others reportedly celebrated Williamson’s murder laughing and calling out, “let’s get them one at a time, ” “that’s what you get for sin, ” “let’s kill all of them.” Furthermore, it is reported that JFLAG regularly receives intimidating mail, e-mails and telephone calls. By way of example, according to the information received, on 16 November 2004 an anonymous male called JFLAG and said “homosexuals should be dead”. These incidents have been reported in writing to the Matilda’s Corner police station in Kingston on 26 November 2004. In view of the above, concern is expressed that individuals and associations defending the rights of gays and lesbians, in particular the members of JFLAG, may be at risk of both attempts by public authorities to suppress their exercise of free speech and of violent attacks by homophobic individuals who may have gained the impression that the Government will not vigorously pursue such violence.

### **Observations**

343. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications.

## **Kazakhstan**

### **Responses received to communications sent by the Special Representative in previous years**

344. By letter dated 22 December 2004, the Government replied to the urgent appeal sent on 5 December 2003. The Government confirmed that on 28 January 2003, the Karasai district court sentenced **Sergey Duvanov** to three and half years in prison. It informed that staff from foreign embassies and representatives of international organizations were allowed to attend the judicial hearing as observers. In the hearing of the appeals, the Almaty oblast court refused their attendance because the victim’s mother opposed their presence, since the presence of outsiders seriously violated her rights by broadcasting details of the offence relating to the personal life of the victim, who was a minor. The Government stated that in August 2003, Mr. Duvanov’s lawyers lodged an appeal with the Supreme Court under the supervisory procedure. The Supreme Court found no grounds for reviewing the case after hearing the appeal. Concerning the allegations of lack of fair trial, the Government commented that the evidence of guilt consists of a consistent and precise testimony by the victim. It was objectively backed up, inter alia, by a medical forensic examination of the victim that found bodily injuries characteristic of rape. Moreover, according to the Government, a biological forensic examination indicated that it could not rule out that sperm found in her sexual organs and on her underwear and dressing-gown was

Mr. Duvanov's. It indicated in this respect that a DNA test found that the sperm discovered did belong to Mr. Duvanov. The Government stated that there were no procedural violations, and that the search of Mr. Duvanov's dacha was conducted in accordance with the rules set out in the legislation governing criminal procedure. The preliminary investigation was carried out fully and objectively, and, as the court ruled, the investigating body committed no procedural violations. Numerous witnesses were questioned, several experts' reports were committed, and numerous applications by the parties were granted during the preliminary investigation and the court proceedings. With respect to the mass media, the Government stated that it follows a policy based on legislative guarantees of the freedom of speech and the freedom to receive and distribute information and efforts to enhance the legal framework for the activities of the mass media. It further informed that other principles include placement of official state-funded material in the mass media in a fair manner and a constructive relationship between the state and voluntary groups and associations, international organizations and media research institutes.

### **Observations**

345. The Special Representative thanks the Government for its response.

## **Kyrgyzstan**

### **Communiations sent**

346. On 26 July 2004, the Special Rapporteur sent a letter of allegation regarding **Ainura Aitbaeva**, daughter of human rights defender Ramazan Dyrlydaev, president of the Kyrgyz Committee for Human Rights, who was the subject of a joint communication by the Special Representative and the Special Rapporteur on extrajudicial, summary and arbitrary executions on 8 May 2003. According to information received, on 3 July 2004, Ainura Aitbaeva was allegedly attacked and beaten by unidentified individuals in front of her home in the presence of her two children. She is still in hospital, where she is suffering from concussion. Concern is heightened by the fact that other similar attacks against family members of human rights defenders have been reported. It is reported that this is not the first incident of an attack against family members of human rights defenders. It is alleged that in April 2004, four unidentified men attacked Chingiz Sydykov, the 21-year-old son of Zamira Sydykova, chief editor of the independent newspaper *Respublika*. It is reported that prior to the alleged attack against her son, Zamira Sydykova had published articles criticizing the Ministry of Internal Affairs of Kyrgyzstan. Concern has been expressed that the alleged attack against Aitbaeva Ainura may be directly related to the activities of her father and his work as a human rights defender.

### **Communications received**

347. By letter dated 15 September 2004, the Government replied to the communication sent by the Special Representative on 26 July 2004 with information relating to the case of **Ainura Aitbaeva** and **Chingiz Sadykov**. Following the submission of a formal complaint by Ainura Aitbaeva, the Government stated that she was requested to undergo a forensic and medical examination. However, she apparently declined, and as a result no official confirmation of her assault exists. Consequently, the Ministry of Internal Affairs has decided to discontinue all investigations and to halt all criminal proceedings due to lack of evidence. Presently, the

Sverdlovsk District attorney general's office in Bishkek is reviewing these decisions and will determine whether they should be upheld. In connection with the assault on Chingiz Sadykov, the Government confirmed that the Oktyabr District of internal affairs had begun criminal proceedings the following day, 26 April 2004. On 22 May 2004, Arzamat Sagyndykovich Akhmatov was charged with hooliganism and remanded in custody at a centre in Bishkek. The case is awaiting a hearing before the Oktyabr district court in Bishkek.

### **Observations**

348. The Special Representative thanks the Government for its response. She welcomes the steps taken by the authorities but notes with concern their decision to discontinue investigation into the allegation. She invites the Government to keep her informed of the developments in this case.

## **Lebanon**

### **Communications sent**

349. On 23 September 2004, the Special Representative sent an urgent appeal concerning **Samira Trad**, member of Frontier center, an organization that works on refugee rights in Lebanon, who has already been the subject of a letter of allegation sent by the Special Representative on 16 September 2003. According to new information received, following her detention in September 2003, the General Security directorate sought charges against Ms. Trad for operating an "illegal organization" and "harming the image of the State". The Prosecutor General rejected those charges, including those related to the legal status of the organization. Instead, he reportedly charged Samira Trad under article 386 of the Penal Code for libel against the Lebanese authorities in Baabda court. It is reported that to date, the prosecutors have not specified who was libeled or how, and that no date has been set for a trial.

### **Communications received**

350. By letter dated 12 November 2004, the Government responded to a communication sent by the Special Representative on 23 September 2004 concerning the legal action taken against Samira Trad. The Government confirmed that the file regarding the prosecution of Samira Trad had been deposited with the Baabda criminal court on 11 September 2003. According to the Office of the Prosecutor General, the appeal hearing has been set for 28 January 2005.

### **Observations**

351. The Special Representative thanks the Government for its response. She remains concerned about the persisting harassment of Samira Trad and her organization. She notes with concern the legal action taken against Samira Trad in connection with her activities in favour of refugees. The Special Representative recalls that the law of libel requires legislators to strike a delicate balance between the protection of freedom of speech – particularly where this freedom is exercised in the defence of human rights – and the interests of the persons who are the subject of derogatory speech. In particular, she invites the Government to consider whether the use of such laws in against legitimate activities of human rights defenders such a publishing reports,

correctly strikes this balance. She invites the Government to keep her informed of the developments in this case.

### **Libyan Arab Jamahiriya**

#### **Communications sent**

352. On 21 April 2004, 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 regarding the situation of **Fathi El-Jahmi**, a human rights defender and recently released political prisoner, who has reportedly disappeared. According to the information received, Mr. El-Jahmi was sentenced to five years' imprisonment in October 2002, following an address to the People's Congress in Tripoli during which he reportedly called for democratic and political reform. He was allegedly not permitted to attend the trial and was reportedly released from prison on 12 March 2004. According to the information received, following his release, Mr. El-Jahmi was reportedly subject to 24-hour surveillance and his home phone and electricity supply were reportedly disconnected. He was also reportedly threatened by members of the Revolutionary Committee Party, who reportedly stated that they would kidnap his wife and daughters if he continued to express his views on the human rights situation in the country. On 19 March, it is reported that members of the Revolutionary Committee Party allegedly ransacked the computer business owned by Mr. El-Jahmi's son. On 4 April 2004, an unidentified security group allegedly raided the home of Mr. El-Jahmi and took him away to an undisclosed location. In view of his alleged disappearance, concern is expressed that since he is a diabetic and suffers from a cardio-vascular disease that requires daily medication, Mr. El-Jahmi may be at risk of torture or ill-treatment. Concern is also been expressed that he has been targeted for his work in defence of human rights, and in particular for calling for political reform.

#### **Observations**

353. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication.

### **Malaysia**

#### **Communications sent**

354. On 8 March 2004, 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 concerning members of **Suara Rakyat Malaysia (SUARAM)**, a human rights NGO, and other participants in a peaceful demonstration against the misuse of police power. According to the information received, on 28 February 2004 one hundred people, including members of SUARAM and of political parties, gathered outside the Bukit Aman Police Station to protest against the abuse of police powers and in particular, the death of suspects while in police custody, police shootings, violations of remand procedure and the dispersion of peaceful assemblies. According to the information received, the demonstrators were reportedly going to hand a memorandum to the inspector general of the police when the police allegedly intervened, confiscating the memorandum and ordering the demonstrators to disperse. It is reported that they

attempted to arrest Fahmi Reza, a member of SUARAM, and when the crowd protested and demanded his release, members of the police allegedly beat him. The police also reportedly sprayed chemical-laced water against the crowd. Following this, 17 demonstrators, including **Eric Paulsen, Elizabeth Wong** and **Fahim Reza** of SUARAM, **Sivarasa Rasiah**, vice-president of the Malaysian People's Party and **Tian Chua**, vice-president of the National Justice Party, were arrested. In the course of their arrest, Tian Chua and Elizabeth Wong allegedly sustained bruises due to ill-treatment by the police. All those arrested have reportedly been released on bail and have been requested to report back to the police on 15 March 2004. Concern has been expressed that the members of SUARAM and other demonstrators may have been arrested for their human rights activities, in particular their condemnation of the abuse of police powers.

355. On 5 May 2004, 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 concerning the arrest of **P. Uthayakumar**, a human rights lawyer and of several other people, in particular **S. Jayathas, Ganesan, Dhayalan, Raju, Batumalai, Kanthan, Devarass, Letchumanan, Nambirajan** and **Antonyamma**, during a demonstration. According to the information received, on 30 April 2004, a group of 20 people gathered outside the Brickfields police station in Kuala Lumpur to protest against police brutality, and in particular the alleged death in custody of Francis Udayapan held in connection with a theft, and to demand to see his body. Riot police were reportedly waiting outside the police station and while the mother of Francis Udayapan went inside to lodge a report regarding the alleged death of her son, police with batons reportedly broke up the demonstration and arrested 11 of the protestors including P. Uthayakumar, S. Jayathas, Ganesan, Dhayalan, Raju, Batumalai, Kanthan, Devarass, Letchumanan, Nambirajan and Antonyamma. They were allegedly released on bail shortly afterwards and are required to report to the police on 15 May when charges may be brought against them. Concern has been expressed that P. Uthayakumar and other demonstrators may have been targeted for their human rights activities, in particular their condemnation of the alleged death of suspects in police custody.

356. On 13 May 2004, the 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 extrajudicial, summary or arbitrary executions, sent a follow-up urgent appeal concerning the situation of **P. Uthayakumar**. According to the information received, P. Uthayakumar has worked on behalf of victims of alleged police brutality and is currently representing the family of Francis Udayapan. It is reported that he has received numerous threatening phone calls related to his work and on 8 May 2004, his brother Wanytha Moorthy reportedly received a call on his mobile phone from an anonymous caller who reportedly stated that his brother should "not fool around with the police" and further stated that if he did not heed this warning, he would be killed. In this context and according to the information received, on 11 May 2004 Mr. Uthayakumar was driving along Jalan Medang in Bangsar when a motorcycle reportedly began to trail his car. A short time later, he was reportedly blocked by three or four cars. The driver of one of the cars reportedly alighted from his vehicle and approached the car of Mr. Uthayakumar with a sledgehammer, allegedly smashing the windscreen and the driver's side window. It is reported that the driver of the motorcycle then pointed a gun at him following which Mr. Uthayakumar allegedly jumped out of the door of his car on the passenger's side and managed to

escape his assailants. He reportedly suffered injuries to his face, hands, legs and back during the incident. Immediately after the alleged attack, he reportedly filed a complaint at Brickfields police station. Reportedly, he has filed a number of reports to the police about threatening calls that he has received in the past but to date, no action by the police has been taken. Concern has been expressed that Mr. Uthayakumar is being targeted for his human rights activities and in particular his work to defend victims of police brutality.

357. On 7 July 2004, the 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 contemporary forms of racism, racial discrimination, xenophobia and related intolerance, sent a follow-up urgent appeal concerning the safety of Mr. **Uthayakumar** who has received new threats on two occasions. On 20 May 2004, he was assaulted at gunpoint by persons believed to be members of the Royal Malaysian Police Force. He sought temporary asylum in the United Kingdom and returned to Malaysia on 13 June 2004, with the assurances of the Government of Malaysia that his safety would be guaranteed. Information indicates that since his return, his Uthayakumar's office has been repeatedly visited by the Royal Malaysian Police Force, for which he has lodged a complaint with the police. The officer in charge of the police district of Brickfields has since lodged a police report against Mr. Uthayakumar for alleged criminal defamation of the police. On 29 June 2004, Mr. Uthayakumar found an envelope in his letter box containing a bullet in a plastic casing and a note written on tracing paper using letters from newspaper cuttings and reading "Lu Puki mak, suka Timbulkan sentimen perkauman, Lu mati sikit-sikit nanti gampang" (you son of a gun, like to raise racial issues, you will die slowly eventually, fool).

358. On 26 October 2004, 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 a follow-up urgent appeal concerning the continued harassment of **Mr. Uthayakumar**. According to the information received, in a letter dated 21 June 2004, the director-general of income tax informed him that he was not allowed to leave the country since he allegedly owed income tax. On 16 July, he paid this amount and subsequently sent three letters asking for a certificate of release that would enable him to travel abroad again, which he has not yet received. It is further reported that on 9 September 2004, Mr. Uthayakumar was arrested at his law firm in Kuala Lumpur and brought to Brickfields police station and the Kuala Lumpur Magistrates Court Police Headquarters at Jalan Hang Tuah. Reportedly, he was required to provide a statement in relation to the proceedings opened against him on charges of defaming the police. According to the information received, these charges result from statements he made after he was attacked on 10 May 2004, in which he voiced his suspicion that high-ranking police officers were involved in the attack. He was released four hours after the arrest. Concern remains that the alleged harassment of Mr. Uthayakumar is a response to his efforts to publicize alleged human rights abuses by the Royal Malaysian Police Force, and to his work as a lawyer representing a number of clients from the Indian minority in Malaysia.

#### **Communications received**

359. By letter dated 14 June 2004, the Government replied to the urgent appeal sent on 5 May 2004 concerning **Mr. Uthayakumar, S. Jayathas, Ganesan, Dhayalan, Raju, Batumalai, Kanthan, Devarass, Letchumanan, Nambirajan and Antonyamma**. The Government informed that, on 29 April 2004, the Royal Malaysian Police received a fax concerning plans of the demonstration referred to in the communication sent by the Special Representative. It stated that between 30 and 40 people took part in the demonstration. When the demonstrators reached the gates of the Brickfields police station, police officers warned the group to disperse since a demonstration without a legal permit is considered an illegal assembly. The police informed that only those who intended to lodge a police report would be allowed into the police station, and only the mother of Francis Udayapan and a lawyer did so. According to the Government, after several warnings by the police, 12 people who refused to disperse were arrested. The arrests were based on section 27 of the Police Act 1967 for the offence of convening an illegal assembly. The Government indicated that on 30 April 2004, those who were arrested were released on police bail. The police would continue their investigations. According to the reply, the concern expressed that some members of the demonstrators were specifically targeted for arrest is groundless.

360. By letter dated 23 June 2004, the Government replied to the urgent appeal sent on 8 March 2004 concerning **Eric Paulsen, Elizabeth Wong, Fahim Reza, Sivarasa Rasiah, Tian Chua and Suara Rakyat Malaysia (SUARAM)**. The Government informed that police officers had received information that a group of demonstrators intended to gather in front of police headquarters in Bukit Aman for the primary purpose of submitting a memorandum to the authorities. The police agreed to allow three representatives of the demonstrators to enter the police headquarters to formally hand over the memorandum to the Officer-in-Charge. According to the reply, the demonstrators insisted that 10 of them should be allowed to enter. The police stood by their earlier decision since three representatives would likely create less upheaval within the building and still serve the primary purpose of the demonstration. The Government indicated that at the same time, police officers requested the demonstrators outside the police headquarters to disperse, since such a gathering would require a police permit obtained in advance under section 27 of the Police Act 1967. It stated that after the demonstrators repeatedly ignored these requests, 17 demonstrators were arrested on the charge of convening an illegal assembly. They were released the same day on police bail. The Government indicated that at no time was force used to either detain or keep them in custody.

361. By letter dated 7 October 2004, the Government replied to the urgent appeals sent on 13 May 2004 and 7 July 2004. The Government confirmed that **Mr. Uthayakumar** lodged a complaint concerning the assault referred to in the communication sent on 13 May 2004. It stated that in this report, lodged on 10 May 2004, Mr. Uthayakumar accused the police of being behind the incident. The Government mentioned that an investigation had been launched under sections 324, 427 and 506 of the Penal Code, and that no arrests had been made so far. According to the Government, the investigation has been hampered due to Mr. Uthayakumar's refusal to give police statements under section 112 of the Criminal Procedure Code. On 17 June 2004, he was subpoenaed under this section in an effort to record his statement for further investigation into the case. Despite acknowledging receipt of the subpoena, Mr. Uthayakumar did not turn up at the police station. The Government informed that on 27 August 2004, the Kuala Lumpur Magistrates Court issued a warrant to ensure Mr. Uthayakumar's compliance under section 111 (2) of the Criminal Procedure Ordinance. On 9 September 2004, he was picked up by the police for his

statement to be recorded and was released the same day. According to the reply, there exists no evidence to prove that the incidents involving Mr. Uthayakumar had any connection with the police, or were the direct result of Mr. Uthayakumar's work to discredit the police force.

362. By letter dated 22 December 2004, the Government replied to the urgent appeal sent on 26 October 2004. The Government reiterated its response dated 7 October 2004, by which it explained the reason behind the arrest of **Mr. Uthayakumar** on 9 September 2004. The Government stated that it failed to see how the execution of a warrant issued by the country's independent judiciary for Mr. Uthayakumar's failure to respond to a subpoena can possibly be construed as a violation of his basic human rights. With regard to the restriction on Mr. Uthayakumar's travels abroad, the Government informed that the restriction remains as long as the amount he owes to the Inland Revenue Board is not settled in full, pursuant to subsection 104 (1) of the Malaysian Immigration Department's Suspected List. According to the reply, in order for Mr. Uthayakumar to be allowed to travel overseas again, he would need to submit a Release Letter to the Immigration Department from the Inland Revenue Board, which will state, inter alia, that he has paid his arrears in full.

#### **Responses received to communications sent by the Special Representative in previous years**

363. By letter dated 4 March 2004, the Government replied to the urgent appeal sent jointly 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 on 6 November 2003. The Government confirmed that on 16 October 2003, the Kuala Lumpur magistrates court convicted **Irene Fernandez** of maliciously publishing false news, and that here one-year jail sentence had been stayed pending appeal. It informed that, in 1996, when Ms. Fernandez was first charged, the court ordered her to surrender her passport, a routine procedure in cases where there is flight risk. Her passport has since expired, and her application for a new passport has been denied on the grounds that the case is still under due process of law since Ms. Fernandez has filed an appeal to the High Court.

#### **Observations**

364. The Special Representative thanks the Government for its numerous replies. She remains gravely concerned with the reported persistent harassment of **Mr. Uthayakumar**, including death threats and assaults. The Special Representative takes note of the Government's explanation of the administrative and judicial proceedings against him. With respect to the persistent restrictions on Mr. Uthayakumar's movement, she acknowledges that as outlined in the Government's replies, the authorities appear to have strictly applied the legislation governing the non-payment of taxes. The Special Representative regrets to note, however, that the Government's reply in relation to this issue does not dispel the concerns she raised in communication. She observes that freedom of movement represents an internationally recognized basic freedom and invites the Government to consider whether national laws providing for its curtailment for non-payment of taxes may not be incompatible with the international norms in this respect. She thus encourages the Government to consider other means than restricting Mr. Uthayakumar's basic right to freedom of movement to address his reported failure to pay his taxes in full. She encourages the Government to reply favourably to her request

sent on 8 July 2002 and reiterated on 2 December 2004 for an invitation to conduct an official visit to the country in 2005.

## **Maldives**

### Communications sent

365. On 6 October 2004, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on torture and the Special Rapporteur on violence against women, sent an urgent appeal regarding Mr. **Ismail Asif** and Ms. **Jennifer Latheef**, respectively employee of a television company and video film producer, both of whom have been working to draw attention to human rights concerns. According to the information received, Ismail Asif, who is also an activist for the political opposition, was arrested at his home at around 10 p.m. on 17 September 2004. He is reportedly being held without charges and was not allowed access to a lawyer. It is reported that he is being questioned about organizing a peaceful political meeting in July 2004, which was disguised as birthday party. It was also alleged that he was arrested because of his involvement in a civil society network that monitors the conditions of detention of those arrested following the August demonstrations to ensure their human rights are protected. From mid-August 2004 until his arrest, Ismail Asif had been interviewing those who had been released from detention to document human rights violations against detainees and has been helping families of the detainees to draft letters to the authorities requesting the right to visit. According to information received, Jennifer Latheef, who has particularly focused her work on the prevalence of sexual abuse in the country, was reportedly arrested in front of the National Security Services on 13 August 2004, when a demonstration was broken up with baton charges and tear gas. She is reportedly being detained at the Dhoonidhoo interrogation centre and was denied access to family members until 17 September 2004. It was also reported that, during her detention, the police kicked her in the back numerous times whilst she was blindfolded. She was reportedly detained a first time on 22 September 2003 for her part in a protest regarding the killing of Evan Naseem on the 19 September 2003 and the killing of three other prisoners and fatal injury of others on 20 September 2003 in Maafushi Jail.

### **Communications received**

366. By letter dated 27 October 2004, the Government responded to a communication sent by the Special Representative on 6 October 2004 regarding **Jennifer Latheef** and **Ismail Asif**. The Government informed the Special Representative that the aforementioned had both been arrested, on 13 and 17 August 2004 respectively, in connection with the investigation into the mob violence of 12-13 August 2004. According to the Government, the investigation of Jennifer Latheef had been completed and as a result, she has been under house arrest since 26 October 2004. The Government indicated that in accordance with the law, charges would be filed against her shortly. The Government assured that, in conformity with the rights of all citizens, the accused would receive a fair and impartial trial. Regarding the situation of Ismail Asif, the Government stated that the investigation remained open. The Government assured that on completion Ismail Asif would be promptly released or charged. The Government declared that

all detainees in the Dhoonidhoo centre were given adequate access to family visits, legal counsel and medical assistance. Concerning the accusations of torture and ill-treatment, the Government stated that the Human Rights Commission of the Maldives had been ordered to undertake an investigation. Once the final conclusions have been made, the Government promised to take the appropriate legal action against any possible guilty parties. The Government emphasized its commitment to human rights and highlighted the agreement signed with the International Committee of the Red Cross on 5 October 2004, and the visit by a two-member delegation from Amnesty International on 10 October 2004.

### **Observations**

367. The Special Representative thanks the Government for its reply. She welcomes the Government's clarifications on both cases and the investigations carried out into the allegation. She observes however that the Government's response has not dispelled her concerns about allegations of arbitrary detention and arrest of the human rights defenders in question. In particular, she calls on the Government to either bring charges or immediately release both individuals.

## **Mauritania**

### **Communications envoyées**

368. Le 2 décembre 2004, la Représentante spéciale, 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 les exécutions extrajudiciaires, sommaires ou arbitraires et la Rapporteuse spéciale chargée de la question de la violence contre les femmes, a envoyé un appel urgent concernant neuf femmes membres du Collectif des familles de détenus, **Mmes El Moumne Mint Mohamed Elemine, Raky Fall, Khadijetou Mint Maghlah, Teslem Mint Oumar, Mariem Mint Neyni, Fatimetou Mint Khaya, Mariem Fall Mint Chenouve, Meye Mint Hamady et Fatma Mint Hamady**. Selon les informations reçues, sept d'entre elles auraient été arrêtées le 21 novembre 2004 par la gendarmerie, lors de l'ouverture de la première audience du « procès des putschistes », présumés auteurs de la tentative des coups d'Etat des 8 et 9 juin 2003, dont elles seraient les proches. Elles auraient été conduites à la brigade d'Ouad Naga où elles auraient été parquées sous le soleil et à même le sol pendant toute la journée du 21 novembre. Mmes Meye Mint Hamady et Fatma Mint Hamady auraient quant à elles été arrêtées le 22 novembre 2004, alors qu'elles protestaient contre des gendarmes qui semblaient vouloir maltraiter une femme âgée à la sortie de la salle d'audience. Le même jour, Mme Mariem Mint Neyni, enceinte, aurait été libérée mais aurait, de nouveau, été arrêtée le 29 novembre au soir. Sans avoir été informées des motifs de leur arrestation, elles auraient été interrogées à plusieurs reprises sur les raisons pour lesquelles deux membres du Collectif participaient à la 36<sup>e</sup> session de la Commission africaine des droits de l'homme et des peuples (CADHP). Le 30 novembre 2004, après avoir finalement été accusées de « distribution de tracts » et de « menaces de mort », elles auraient été transférées à la prison des femmes de Nouakchott. Toutes les autorisations de visite demandées par leurs proches auraient été refusées. Mme Raky Fall, enceinte, souffrirait depuis le début de sa détention de douleurs dans la poitrine. En raison de leur détention au secret, des craintes ont été exprimées sur l'intégrité physique et psychologique de ces femmes, et notamment Mme Raky Fall qui se trouve dans un état de santé fragile.

### Communications reçues

369. Par lettre datée du 6 janvier 2005, le Gouvernement a répondu à l'appel en date du 2 décembre 2004. Le Gouvernement a indiqué que les individus en question avaient été arrêtés pour avoir commis des actes délictueux, notamment outrage à magistrat et menace de mort selon les articles 204 et 281 du Code pénal. Le Gouvernement a affirmé que ces femmes avaient été informées des raisons de leur arrestation et traitées avec humanité et a rejeté les allégations d'atteinte à leur intégrité physique, de même que celles relatives à leur absence d'accès à leurs familles et avocats. Le Gouvernement a par ailleurs affirmé que les normes internationales des droits de l'homme ne pouvaient être invoquées pour leur défense au vu des actes délictueux qu'elles auraient commis. Enfin, le Gouvernement a indiqué que ces femmes auraient bénéficié d'une liberté provisoire et qu'elles devraient se présenter lors de leur procès.

### Observations

370. The Special Representative thanks the Government for its response to her communication. She welcomes the reported provisional release of the individual concerned and looks forward to remaining informed about this case.

### Mexico

#### Comunicaciones enviadas

371. El 13 de enero de 2004, la Representante Especial envió un llamamiento urgente con respecto a la situación de **Arturo Solís** y otros miembros de **la organización de derechos humanos Centro de Estudios Fronterizos y de Promoción de los Derechos Humanos (CEFPRODHAC)** y también de **los familiares de José Antonio Cervantes Espeleta** (víctima de asesinato) quienes habrían sufrido una serie de amenazas y actos de intimidación. Según la información recibida, José Antonio Antonio Cervantes Espeleta habría desaparecido el 13 de diciembre de 2003 en la ciudad de Reynosa. Las fuentes de la investigación habrían asegurado a la familia que el Sr. Cervantes Espeleta "habría decidido desaparecer" y que se encontraba vivo y sano. No obstante, su cadáver habría sido hallado el 26 de diciembre. Según los informes, CEFPRODHAC habría denunciado públicamente la aparente incoherencia e inadecuada investigación inicial por lo cual, el director de la policía judicial del Estado los acusó de difamación. No obstante ante la aparente negativa de investigar exhaustivamente el caso, el 4 de enero el presidente de CEFPRODHAC, Arturo Solís, habría solicitado en varios periódicos regionales a las autoridades que investigaran la supuesta implicación de la policía en el secuestro y asesinato de éste y de los otros casos de secuestro ocurridos en el norte del Estado de Tamaulipas. Al día siguiente, un desconocido habría telefoneado a las oficinas de CEFPRODHAC y habría dicho "ya cállense el hocico". Según los policías que investigan el caso en Nueva León, donde vivía la víctima, ellos también habrían recibido amenazas. El 4 de enero la fiscalía de Tamaulipas habría anunciado la detención de cuatro personas - entre ellos miembros en actividad y exmiembros de la policía judicial del Estado y de la policía preventiva - en relación con el caso. Asimismo, según informes, el principal sospechoso, un agente en actividad de la policía judicial del Estado, habría huido.

372. El 23 de enero de 2004, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente con respecto a la situación de **Martín Barrios Hernández**. Según la información recibida, el día 30 de diciembre de 2003 a las 9.30, Martín Barrios Hernández estuvo a punto de entrar en su casa cuando un individuo se le habría acercado y le habría dicho “Fernando, ya deja de estar chingando”. De acuerdo con la información, el individuo habría golpeado a Martín Barrios Hernández en la cabeza y en la espalda con un ladrillo y al tratar de defenderse, el individuo le habría dado puñetazos en la cara y los brazos y le habría dado una patada en el estómago. Luego el individuo habría huido en un taxi que lo habría aguardado al otro lado de la calle. Herido a la cabeza, Martín Barrios Hernández habría sido trasladado a un centro de la Cruz Roja para recibir primeros auxilios y el mismo día, habría denunciado el incidente ante el Ministerio Público de Tehuacán. Esta agresión habría precedido una serie de amenazas recibidas por Martín Barrios Hernández. Se teme que las amenazas y la agresión estén relacionadas con su trabajo como coordinador de la Comisión de Derechos Humanos y Laborales del Valle de Tehuacán que ha apoyado a trabajadores despedidos de fábricas de pantalines vaqueris y otras pequeñas maquilas en Tehuacán. En enero de 2003 la Comisión de Derechos Humanos y Laborales del Valle de Tehuacán produjo conjuntamente con la organización Red de Solidaridad de la Maquila, con sede en Canadá, un informe sobre la situación de los trabajadores (principalmente mujeres indígenas) empleados en las diversas fábricas de tejido en el valle de Tehuacán y los problemas que enfrentan, que incluyen salarios bajos, largas jornadas de trabajo, restricciones a la formación de sindicatos, mano de obra infantil y peligros para la salud a causa de los productos químicos utilizados en las lavanderías, así como problemas medioambientales causados por las maquilas.

373. El 24 de febrero de 2004, la Representante Especial, junto con el Relator Especial sobre la promoción y la protección del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente con respecto a la situación del **General José Francisco Gallardo**, ex general del ejército mexicano y defensor de los derechos humanos. Según la información, en octubre de 1993 el General José Francisco Gallardo publicó en la revista *Forum* un artículo titulado “Las necesidades de un ombudsman militar en México” en el cual proponía la creación del cargo de defensor del pueblo para las fuerzas armadas para examinar las acusaciones de violaciones de derechos humanos cometidas por el personal militar. También consideró inconstitucionales los poderes especiales del ejército, proponiendo ponerles fin. El 9 de noviembre de 1993 habría sido detenido por delitos de malversación, fraude y daños a la propiedad militar, de los cuales ya había sido exonerado años atrás. En marzo de 1998, le habrían condenado a 28 años y 8 meses de cárcel y le habrían quitado los grados militares. En diciembre de 1998, el Grupo de Trabajo de las Naciones Unidas sobre la Detención Arbitraria emitió una opinión sobre el caso del General Gallardo en la cual afirmó que el motivo de la privación de libertad del General era el ejercicio legítimo de su libertad de expresión y opinión. Fue liberado el 7 de febrero de 2002, dos semanas antes de la reexaminación de su caso por la Corte Interamericana de Derechos Humanos. Según la nueva información recibida, el 17 de enero de 2004, un periódico nacional habría citado al General José Francisco Gallardo que habría criticado el nombramiento de un general del ejército para la unidad antiterrorista de la Procuraduría General de la República. El 19 de enero 2004, habría recibido una llamada telefónica en la cual un presunto miembro del ejército le habría dicho “cuidate porque te van a cargar”. Desde la llamada, el General Francisco Gallardo habría visto vehículos desconocidos cerca de su casa vigilando sus movimientos. Habría denunciado ambos incidentes ante la

Procuraduría General de Justicia del Distrito Federal. Se teme que esta amenaza esté relacionada con su actividad de denunciar las violaciones de derechos humanos cometidas por las fuerzas armadas mexicanas.

374. El 24 de febrero de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente con respecto a la situación de **Arturo Solís**, Presidente del Centro de Estudios Fronterizos y de Promoción de los Derechos Humanos. La Representante Especial en su carta del 13 de enero de 2003, ya había expresado su preocupación por las amenazas que éste habría recibido al principio de este año. Según la nueva información recibida, el 4 de febrero de 2004, Arturo Solís habría recibido otra llamada anónima cuyo autor le habría amenazado gravemente. Según las informaciones recibidas, el individuo habría pronunciado las palabras “deja de estar chingando o le va a llevar la chingada”. Se temen que estas presuntas amenazas de muerte estén relacionadas con el trabajo de Arturo Solís a favor de los derechos humanos, en particular el de denunciar la presunta implicación de la policía mexicana en asesinatos y secuestros ocurridos en el norte del Estado de Tamaulipas, y con las varias declaraciones públicas realizado con respecto a la presunta responsabilidad de la policía mexicana en el asesinato del empresario José Antonio Cervantes Ezpeleta, ocurrido en diciembre de 2003.

375. El 24 de marzo de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente sobre la situación del **Comité de Derechos Humanos**, una organización que brinda ayuda humanitaria y refugio a migrantes en el Estado de Tabasco, y en particular su representante **Fray Blas Alvarado**. Según la información recibida, en octubre de 2003 un desconocido habría acercado al esposo de un integrante del Comité de Derechos Humanos en Pueblo Nuevo y, refiriéndose a Fray Blas Alvarado, le habría dicho “al curita lo tenemos fichado y pronto va a caer”. Según la información, el 6 de febrero de 2004, la secretaria del Comité de Derechos Humanos en Tenosique habría encontrado en la oficina un papel que habría dicho, “Cúidense, los estamos vigilando.” El papel habría venido amarrado en la cola de una iguana, la cual se habría encontrado escondida dentro de una bolsa de plástico. Se teme que esta amenaza esté relacionada con la actividad de derechos humanos del Comité de Derechos Humanos y en particular la de denunciar públicamente el trato de los migrantes y las posibles redes de corrupción que favorecen a los traficantes de indocumentados.

376. El 2 de junio de 2004, la Representante Especial, junto con el Relator Especial sobre la promoción 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 la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente en relación con **Lucía Genaro Linares, Erika González Genaro, Elisabeth González Genaro y Adriana Rubio Jorge**. Según las informaciones recibidas, estas personas habrían sido amenazadas después de presentar una denuncia oficial contra las autoridades municipales de Zapotitlán Tablas, Estado de Guerrero. Los informes indican que la denuncia habría sido presentada tras la supuesta muerte bajo custodia, en enero de 2004, de un miembro de la familia Genaro, Sócrates Tolentino González Genaro. Según la información recibida, Sócrates Tolentino González Genaro, de 18 años, habría sido detenido el 14 de enero de 2004 en Zapotitlán Tablas por agentes de la policía municipal que lo habrían llevado a la cárcel municipal. Al día siguiente, las autoridades municipales habrían dicho a su madre, Lucía Genaro Linares, que éste se había

suicidado en la prisión. Tras la muerte de su hijo, Lucía Genaro Linares habría firmado, por instrucción del síndico municipal, unos documentos oficiales, después de que el síndico municipal le habría dicho que las autoridades pagarían los gastos del funeral. Los informes indican que el 17 de enero de 2004, la hija de Lucía Genaro, Erika González Genaro, habría descubierto que su madre había renunciado involuntariamente al derecho de la familia a que se realizara una autopsia, y había declarado que su hijo intentaba suicidarse. Ante el intento de encubrimiento, la familia, con la ayuda de una organización local de derechos humanos, habría conseguido que se exhumara el cadáver de Sócrates. El 10 de marzo de 2004, un examen forense habría concluido que el joven había sido brutalmente golpeado y se había muerto a consecuencia de las lesiones sufridas, que incluían dos fracturas de cráneo, una fractura en una costilla derecha, fractura de la tibia izquierda y fractura del esternón. Lucía Genaro habría presentado posteriormente una denuncia ante el ministerio público de Tlapa, Estado de Guerrero, contra varias autoridades municipales, entre las que se encontrarían el presidente municipal, el síndico municipal y tres agentes de la policía municipal de Zapotitlán Tablas. Según indican los informes, desde que se habría presentado la denuncia, Lucía Genaro y otros familiares habrían sido intimidados en varias ocasiones. En una de ellas, el síndico municipal habría amenazado a Lucía diciendo: "te vamos a matar si no te callas". El 22 de abril de 2004, varios agentes de la policía preventiva municipal que viajaban en un vehículo habrían apuntado con sus armas a las hermanas de Sócrates, Erika y Elizabeth González Genaro, así como a su tía, Cesárea Linares, en Zapotitlán Tablas. El 3 de mayo de 2004, tres policías municipales habrían gritado "señora pendeja" a Lucía Genaro en la calle y le habrían dicho que no hiciera nada sobre la muerte de su hijo. Erika González Genaro habría dejado de ir a la escuela por temor por su propia seguridad. La novia de Sócrates, Adriana Rubio Jorge, también habría sido acosada cuando, el 7 de mayo de 2004, a las tres de la madrugada, dos agentes municipales habrían pasado por delante de su casa y habrían arrojado piedras al tejado del edificio.

377. El 9 de junio de 2004, la Representante Especial, junto con el Relator Especial sobre la promoción y la protección del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente sobre la situación de **Isidro Baldenegro** y **Hermenegildo Rivas**, defensores de derechos humanos y ecologistas que trabajan a favor de los derechos de la comunidad de indígenas rarámuri y en particular para poner fin a la explotación maderera no regulada de tierra forestales. Según la información recibida, el 29 de marzo de 2003, agentes de la Policía Judicial del Estado habrían detenido a Isidro Baldenegro y Hermenegildo Rivas sin orden judicial en la comunidad de Coloradas de Virgen en el Estado de Chihuahua. Se habrían acusado a ambos de posesión ilegal de armas e Isidro Baldenegro habría sido acusado de posesión de marihuana. El 7 de abril de 2003, el juez del Juzgado Penal del Distrito Judicial de Hidalgo habría ordenado la detención preventiva de ambos. Según los informes, numerosos testigos habrían declarado que las pruebas contra ambos habrían sido falsificadas supuestamente por orden del cacique local y en junio de 2003, la Comisión Estatal de Derechos Humanos de Chihuahua habría dicho al Procurador General de Justicia del Estado de Chihuahua que investigara a los agentes implicados. En este contexto y según la información recibida, en abril de 2004 la unidad de asuntos internos de la Procuraduría General del Estado de Chihuahua habría concluido que siete agentes de la policía judicial habrían sido responsables de falsificar las pruebas contra Isidro Baldenegro y Hermenegildo Rivas y habría iniciado procedimientos penales contra ellos en los tribunales estatales. Según la información recibida, a pesar de que se habría demostrado que los cargos contra los dos hombres habrían sido falsificados, el fiscal federal no los habría retirado y habría seguido pidiendo que ambos sean condenados. Según los

informes, el veredicto judicial de su caso sería inminente. Se teme que la supuesta detención arbitraria y las pruebas falsas contra Isidro Baldenegro y Hermenegildo Rivas representen una manera de impedir sus actividades de defender los derechos de su comunidad.

378. El 12 de agosto de 2004, la Representante Especial junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió una carta de alegación. El 13 de mayo de 2004, el periodista y corresponsal de Cima Noticias en Chiapas, **Manuel de la Cruz**, habría sido secuestrado y golpeado por unos 20 policías municipales en Tuxtla Gutiérrez. Manuel de la Cruz habría presentado una queja ante la Comisión Estatal de Derechos Humanos (CEDH) el 13 de mayo de 2004. La CEDH le habría ofrecido medidas precautorias para él y su compañera Laura Matus. Se teme que estos hechos estén relacionados con las denuncias públicas de Manuel de la Cruz respecto a violaciones de derechos humanos que habrían ocurrido durante el conflicto indígena de Los Altos.

379. El 19 de agosto de 2004, la Representante Especial envió un llamamiento urgente sobre la situación de **Pedro Raúl López Hernández**, Ombudsman chiapaneco y presidente de la Comisión de Derechos Humanos del Estado de Chiapas, cuyo caso ya fue objeto de dos previas comunicaciones de la Representante y la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, enviadas al Gobierno el 17 de enero de 2002 y el 17 de octubre de 2002. Según la nueva información recibida, el 16 de agosto de 2004, el Congreso del Estado de Chiapas habría ratificado un dictamen de la Comisión de Justicia del 13 de agosto, de separar temporalmente a Pedro Raúl López del cargo de presidente de la Comisión Estatal de Derechos Humanos, por una acusación de haber obstaculizado la labor del Órgano Fiscalizador para la revisión de los ingresos de la comisión a su cargo. Unas horas después de ratificar el dictamen, se informa que el yerno de Pedro Raúl López, Moisés Cervantes Pérez, habría sido detenido en la Comisión Estatal de Derechos Humanos por elementos de la Agencia Estatal de Investigación que le habrían conducido a la Procuraduría General de Justicia del Estado. Hasta el momento no se conoce la situación de Moisés Cervantes Pérez. Durante el mismo día, la hija de Pedro Raúl López, Martina Martha López Santiago, habría sido detenida por individuos no identificados que habrían revisado su bolsa y después la habrían dejado ir. Se teme que estos actos de hostigamiento y la remoción temporal del Pedro Raúl López puedan constituir un ataque contra la Comisión de Derechos Humanos del Estado de Chiapas con el fin de impedir el trabajo realizado por dicho organismo.

380. El 21 de septiembre de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y el Relator Especial sobre la tortura, envió una carta de alegación. Los relatores especiales han recibido información según la cual un grupo de aproximadamente cinco personas no identificadas habrían disparado 15 veces contra **Horacio Zacarías Barrientos Peralta**, un campesino de la comunidad de La Florida, municipio de Atoyac de Alvarez, Estado de Guerrero, que habría fallecido el 28 de noviembre del 2003 por la tarde. Los hechos habrían ocurrido cuando Horacio Zacarías Barrientos Peralta se encontraba trabajando en su parcela y a menos de 24 horas que el Juzgado Cuarto Penal del Distrito de Acapulco librara la primera orden de aprehensión en contra de uno de los represores de la llamada "guerra sucia", un ex -comandante de la policía judicial. De acuerdo con la información recibida, Horacio Zacarías Barrientos Peralta habría sido víctima y a testigo presencial de la detención, tortura, ejecución y desaparición de campesinos en los años 1970, en acciones supuestamente realizadas por el ejército y la policía mexicanos, en el municipio de Atoyac de

Álvarez, y era justamente uno de los principales testigos de la Fiscalía Especial para Movimientos Sociales y Políticos del Pasado (FEMOSPP), dentro de las investigaciones que se llevan a cabo contra militares y policías involucrados en las mencionadas violaciones de los derechos humanos. Una organización de defensa de los derechos humanos habría informado en reiteradas ocasiones que no era conveniente que Horacio Zacarías Barrientos Peralta fuera entrevistado en su casa y que era necesario llevarlo a declarar a Acapulco o a Ciudad de México, porque opinaban que su vida corría peligro.

381. El 17 de noviembre de 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente en relación con la situación de inseguridad, peligro e indefensión judicial que viven las comunidades indígenas de Oaxaca. En particular, refieren a la situación de **los miembros del Consejo Indígena Popular de Oaxaca “Ricardo Flores Magón”** como consecuencia de los recientes actos de hostigamiento y posibles intentos de asesinato que se habrían llevado a cabo por parte de distintas corporaciones policíacas de Oaxaca. De acuerdo con las informaciones recibidas, el 29 de septiembre Raúl Javier Gatica Bautista, dirigente indígena de la mencionada organización y defensor de los derechos humanos de los indígenas, y la persona que lo acompañaba, Pedro Bautista Rojas, habrían padecido un intento de homicidio mientras regresaban a la Ciudad de México. Se alega que en dicha ocasión, tres sujetos que presuntamente trabajan con José Murat Casab, Gobernador del Estado de Oaxaca, habrían atentado contra la vida de Raúl Javier Gatica Bautista pero debido a la intervención de la policía auxiliar las armas fueron retiradas y el atentado fue impedido. Según se informa, dichos hechos se suman a recientes actos de intimidación sufridos por los miembros del Consejo Indígena Popular de Oaxaca “Ricardo Flores Magón”. En varias ocasiones, Raúl Javier Gatica Bautista se entrevistó con el Relator Especial sobre la situación de los derechos humanos y libertades fundamentales de los indígenas y le manifestó su preocupación por las constantes amenazas y acosos sufridos por él y las poblaciones indígenas de Oaxaca. A pesar de dos reuniones llevadas a cabo los días 8 y 13 de octubre 2004 con las instituciones públicas en las cuales se discutieron posibilidades de habilitar mecanismos temporales de protección para garantizar la integridad física y la vida de los miembros del Consejo Indígena Popular de Oaxaca “Ricardo Flores Magón”, se denuncia la escasa voluntad política de los representantes tanto federales como estatales de cumplir con los requisitos mínimos de seguridad. Se teme que estos actos de hostigamiento en contra del Consejo Indígena Popular de Oaxaca “Ricardo Flores Magón” y el atentado contra la vida de Raúl Javier Gatica Bautista y Pedro Bautista Rojas puedan estar relacionados con sus actividades como defensores de los derechos humanos, en particular en la defensa de los derechos de los pueblos indígenas.

### **Comunicaciones recibidas**

382. Por carta fechada el 11 de marzo de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 24 de febrero de 2004 con información en torno al caso de **José Francisco Gallardo Rodríguez**. El Gobierno confirmó que el 21 de enero de 2004 el afectado habría presentado una denuncia ante la Fiscalía desconcentrada en Tlalphan. En la actualidad las amenazas serán investigadas por parte de la fiscalía local, y en cuanto se termine la investigación el Gobierno remitirá el resultado con la mayor brevedad posible. Por el momento, el Gobierno informó que el citado ciudadano beneficiará de medidas provisionales otorgadas por

la Corte Interamericana de Derechos Humanos, entre ellas, un servicio de acompañamiento y protección.

383. Por carta fechada el 27 de abril de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 23 de enero de 2004 con respecto a la situación de **Martín Barrios Hernández**. El Gobierno informó que el 30 de diciembre de 2003 la víctima habría presentado una denuncia ante la Procuraduría General de Justicia del Estado de Puebla para denunciar al probable responsable. Por consecuencia, la Policía habría iniciado una investigación para averiguar el nombre y domicilio de los probables responsables, así como de los testigos presenciales. Como consecuencia, se logró la comparencia del probable responsable del delito de lesiones y amenazas. El denunciante presentó queja ante la Comisión de Derechos Humanos del Estado Puebla con motivo de los mismos hechos. Un representante de dicha Comisión acudió a la ciudad de Tehuacán Puebla, para solicitar a la Procuraduría General de Justicia de Puebla y a la Dirección de Seguridad Pública Municipal de Tehuacán Puebla que tomen las medidas necesarias para garantizar la seguridad e integridad física del denunciante, petición que fue aceptada por esa autoridad. El Gobierno informó que la autoridad ministerial local y la Comisión de Derechos Humanos del Estado Puebla están investigando los hechos denunciados. Adicionalmente, el Gobierno de Colombia seguirá atento al resultado de las investigaciones que se adelanten, respecto de lo cual informará oportunamente a la Representante Especial.

384. Por carta fechada el 10 de junio de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 13 de enero y el 2 de febrero de 2004 con información relacionada a la situación de **Arturo Solís Gómez**, el Presidente del Centro de Estudios Fronterizos y de Promoción de los Derechos Humanos (CEFPRODHC), una organización que está investigando la muerte de José Antonio Cervantes. Respecto a la seguridad del citado ciudadano, la Policía Ministerial del Estado de Tamaulipas habría recibido de oficio la denuncia que se le habría permitido de abrir una investigación. La autoridad ministerial lo habría juzgado necesario de otorgar varias medidas cautelares para asegurar la integridad física de Arturo Solís Gómez, entre ellas, la vigilancia policial y contacto inmediata entre el víctima y la Comisión de Derechos Humanos del Estado en todo momento. Respecto a la investigación del secuestro y homicidio, el 5 de enero de 2004 los supuestos responsables habrían sido puestos a la disposición del Juez Segundo de Primera Instancia Penal del Quinto Distrito Judicial del Estado. Asimismo, habría solicitado ordenes de aprehensión en contra de cuatro otras personas, los trámites para la extradición de una de ellas, que habría estado interceptado en los Estados Unidos de América, habrían sido iniciados.

385. Por carta fechada el 15 de junio de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 24 de marzo de 2004 con respecto a la situación de **Fray Blas Alvarado**. El Gobierno confirmó que la víctima habría presentado una denuncia ante la Procuraduría General de Justicia de Tabasco el 10 de abril de 2004. No obstante, la Comisión Estatal de Derechos Humanos de Tabasco habría declarado que, por su parte, no habría recibido ninguna queja en relación con el asunto. Sin embargo, aun intentaría establecer contacto con el presunto querellante para informarle de su derecho a la protección ante la ley. El Gobierno declaró en cuanto tenga más información informaría oportunamente a la Representante Especial.

386. Por carta fechada el 21 de junio de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 9 de junio de 2004 con respecto al caso de **Isidro Baldenegro y Hermenegildo Rivas**. El Gobierno informó que la Comisión Estatal de Derechos Humanos de Chihuahua habría abierto una investigación al fin de la cual habría recomendado que la Subprocuraduría de Justicia Zona Sur investigara la forma y los términos en que los citados ciudadanos se habrían encontrado detenidos.

387. Por carta fechada el 4 de agosto de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 9 de junio de 2004 con la puntería de proporcionar información adicional sobre **Isidro Baldenegro y Hermenegildo Rivas**. En junio de 2004, una opinión técnica jurídica había ratificado conclusiones no acusatorias a favor de los detenidos. A raíz de eso, el juez había sobreseído la causa penal y el 23 de junio de 2004, les había puesto en libertad.

388. Por carta fechada el 1º de julio de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 2 de junio de 2004 sobre **Lucía Genaro Linares, Adriana Rubio Jorge, Erika González Genaro y Elisabeth González Genaro**. El Gobierno informó que el procedimiento investigativo que habría sido iniciado por la Procuraduría General de Justicia del Estado de Guerrero el 15 de enero de 2004 continuaría a fin de determinar los hechos verdaderos entorno a la muerte de Sócrates Tolentino González Genaro. Una vez que se arroje todos los elementos necesarios, se ejercería la acción penal correspondiente.

389. Por carta fechada el 24 de septiembre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 19 de agosto de 2004 con respecto a la situación de **Pedro Raúl López Hernández**. El Gobierno del Estado de Chiapas informó que el citado ciudadano habría beneficiado de medidas cautelares desde el 16 de enero de 2002. Respecto a las presuntas detenciones del yerno e hija de Pedro Raúl López Hernández, el Gobierno declaró que no había encontrado ninguna prueba para comprobar la detención de ambos.

390. Por carta fechada el 29 de octubre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 12 de agosto de 2004 relativa a la situación de **Manuel de la Cruz**. El Gobierno informó que existen evidencias en la averiguación previa iniciada por el Ministerio Público que permiten presumir que los agentes municipales denunciados incurrieron en hechos delictivos; situación que en su oportunidad valorará el órgano jurisdiccional. Agregó que es cierto que el Señor Manuel de la Cruz fue objeto de abuso y negligencia por parte de servidores públicos municipales. Además, se informó que el 2 de agosto de 2004, se dictó auto de formal prisión en contra de cuatro policías municipales como probables responsables de los delitos de robo con violencia, privación ilegal de la libertad, abuso de autoridad y lesiones. Los cuatro policías se encuentran en detención preventiva y están siendo procesados bajo una causa penal del Juzgado Segundo de primera Instancia del Ramo Penal del Distrito Judicial de Tuxtla que se encuentra en etapa de instrucción. Asimismo, la Comisión Estatal de Derechos Humanos lleva a cabo una investigación que se encuentra pendiente de conclusión definitiva.

391. Por carta fechada el 29 de noviembre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 21 de septiembre de 2004 referente a la muerte de **Zacarías Barrientos Peralta**. El Gobierno informó que el 6 de enero de 2004 se habría

proferido una orden de captura contra cinco personas, y les habría puesto a disposición del Juez de Primera Instancia en Materia Penal del Distrito Judicial de Galeana. Asimismo, un proceso habría sido iniciado en contra de los presuntos responsables, el resultado de la cual, remitiría a la mayor brevedad posible.

### **Seguimiento de comunicaciones transmitidas previamente**

392. Por carta fechada el 28 de enero de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 13 de noviembre de 2003 relativa a la situación de **Marisela Ortiz**. El gobierno transmitió un informe de la subprocuraduría de investigación en el que constató que habría entrevistado a **Marisela Ortiz** y solicitado la ayuda técnica de un especialista de identificación (retrato hablado) con el fin de identificar a los responsables de las amenazas sufridas por ella. Se adjuntó a la comunicación recibida el retrato realizado por el especialista del presunto responsable. Además, el gobierno informó que oficiales de la Procuraduría General se habrían trasladado al domicilio de Marisela Ortiz con el propósito de entrevistarla, sin embargo, les habría informado que la señora no se encontraba ya que se habría ido a los Estados Unidos por temor a represalias.

393. Por carta fechada el 5 de enero de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 13 de septiembre de 2002 relativa a la situación de **Francisco Cortés Pastenes**. El gobierno informó que el 30 de agosto de 2002, la CIDH transmitió una nota mediante la cual decretó medidas cautelares de carácter urgente a favor de la Enedina Cervantes Salgado, esposa de Faustino Jiménez, así como a favor de Francisco Cortés Pastenes. Se comunicó también que el Gobierno de México implementó las siguientes medidas a favor del Francisco Cortés Pastenes: una escolta integrada por elementos de la Procuraduría General de la República, y un número telefónico de seguridad para comunicarse con la Unidad de Promoción y Defensa de los Derechos Humanos de SEGOB. Las investigaciones se encuentran a cargo de la Unidad contra la Delincuencia Organizada (UEDO).

### **Observaciones**

394. The Special Representative would like to thank the Government for its responses, and once again comment on their ongoing diligence in promptly replying to multiple communications. The Special Representative welcomes the arrest of four police officers currently held in detention awaiting trial for the kidnapping and ill-treatment of Manuel de la Cruz. She regrets that in the communication received concerning Lucía Genaro Linares, Adriana Rubio Jorge, Erika González Genaro and Elisabeth González Genaro, the Government referred solely to the ongoing investigation of Socrates Tolentino González Genaro and thus omitted to inform the Special Representative of any investigation into the threats against the aforementioned human rights defenders. She refers to her main report to the Commission on Human Rights (E/CN.4/2005/101) for a detailed analysis of the trends in the situation of human rights defenders in Mexico, and for her observations to these trends.

## **Morocco**

### **Communications envoyées**

395. Le 12 janvier 2004, la Représentante spéciale a envoyé un appel urgent concernant la situation de **Mohammed Rachid Chrii**, vice-secrétaire général de la section de l'Association marocaine des droits de l'homme (AMDH) à Safi. Selon les informations reçues, Mohammed Rachid Chrii aurait été interpellé le 22 avril 2003 à la suite d'une altercation qu'il aurait eue dans la rue avec un policier alors que ce dernier brutalisait un homme en état d'arrestation dans un quartier de la ville de Safi. Selon les informations reçues, peu après cette altercation, il aurait été suivi et enlevé par ce même policier et certains de ses collègues et emmené dans un centre de détention non officiel où il aurait été soumis à de mauvais traitements, notamment à des coups et à l'introduction d'objets dans l'anus. Il aurait ensuite été conduit au commissariat de police où il aurait de nouveau subi des sévices. Alors que des certificats médicaux attesteraient des sévices et traumatismes subis par M. Chrii, aucune enquête n'aurait été ouverte à ce jour sur ces faits. D'autre part, selon les informations reçues, le 9 mai 2003, Mohammed Rachid Chrii aurait été condamné par le tribunal de première instance de Safi pour outrage à fonctionnaires publics dans l'exercice de leurs fonctions à 18 mois de prison ferme et 4 000 dirhams d'amende. Ce verdict aurait été confirmé en appel par la cour d'appel de Safi le 10 juin 2003. Une procédure d'appel serait en cours mais aucune date d'audience n'aurait été fixée.

396. Le 18 février 2004, la 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'allégation concernant des allégations de brutalité contre **Abdelhamid Amine** ainsi que plusieurs militants lors d'un sit-in pacifique devant le Parlement à Rabat, organisé le 28 janvier 2004 à l'appel de la Coalition pour le droit aux soins et l'accès aux médicaments et de celle d'artistes pour la diversité culturelle. M. Amine aurait été violemment frappé par la police et serait resté inanimé pendant plusieurs minutes suite aux coups reçus.

397. Le 28 octobre 2004, la Représentante spéciale a envoyé un appel urgent concernant la situation de M. **Ali Salem Tamek**. Ali Salem Tamek, un militant pour l'indépendance du Sahara occidental, est également militant de la branche sahraoui du Forum pour la Vérité et la Justice, une association qui fait campagne pour les droits de victimes de torture, de disparitions forcées et d'autres violations des droits de l'homme et de leurs familles. Le 10 septembre 2002, M. Tamek a été condamné à deux ans d'emprisonnement et à une amende pour « mise en danger de la sécurité intérieure de l'Etat ». Le 30 janvier 2003, alors qu'il était en détention au complexe pénitencier de Salé, un de ses codétenus l'aurait attaqué avec une barre de métal. Ce même codétenu l'aurait déjà auparavant attaqué avec un couteau. En raison de la détérioration de sa santé, M. Tamek aurait été transféré le 29 juin 2003 à l'hôpital de la prison de Aït Melloul. M. Tamek aurait été libéré début janvier 2004 par un décret d'amnistie royale. Selon les informations reçues, Ali Salem Tamek souffrirait de plusieurs maladies (asthme, crises cardiaques, rhumatisme, intestins, estomac et peau) et aurait besoin de se déplacer à l'étranger pour y être hospitalisé. Il aurait déposé vainement trois dossiers de demande de passeport : le premier, le 6 avril 1999, sous le numéro 149; le deuxième, le 9 février 2001, sous le numéro 55; et, le dernier, le 21 octobre 2004. A cet égard, nous sommes préoccupés par le fait que les délais pour délivrer un passeport à M. Tamek pourraient être motivés par une volonté de le punir pour ses activités passées au sein du Forum pour la Vérité et la Justice, et dans le but d'exercer des pressions à son égard afin qu'il ne reprenne pas ses activités au sein de cette association, malgré son état de santé critique.

**Communications reçues**

398. Par lettres en date du 14 janvier, du 16 juin et du 6 août 2004, le Gouvernement a répondu à la communication envoyée par la Représentante spéciale, le 12 janvier 2004, concernant la situation de M. **Mohammed Rachid Chrii** qui aurait fait l'objet d'une affaire de commerce illégal de drogues. Concernant les accusations de mauvais traitement, le Gouvernement observe que l'examen médical présenté le 24 avril 2004 et l'examen indépendant auraient indiqué que bien que l'intéressé ait présenté des bleus et des blessures mineures, cela ne pouvait constituer des marques de torture. Concernant les charges pesant sur Mohammed Rachid Chrii, ce dernier aurait été condamné pour commerce illégal de drogues, transfert clandestin de tabac, port d'arme et outrage à fonctionnaires dans l'exercice de leurs fonctions. Il aurait été condamné à une peine de dix-huit mois d'emprisonnement et à une amende de 4 000 dirhams. La cour d'appel aurait néanmoins révisé la sentence pour commerce illégal de drogues. Le 7 janvier 2004, l'intéressé aurait bénéficié de la grâce royale pour des raisons humanitaires.

### **Observations**

399. The Special Representative thanks the Government for its replies relating to the communication sent in the case of Mr. Chrii. She regrets that the Government has not, at the moment of the finalization of the present report, submitted replies to the other communications.

400. With regard to the case of Mr. Chrii, the Special Representative welcomes the Royal pardon granted to him. She also welcomes that Mr. Chrii was subjected to a medical visit to clarify his allegations of torture at the hands of the police. The Special Representative regrets, however, that the perpetrators of the ill-treatment of Mr. Chrii, which appears to be confirmed by the results of the medical examination, have not been subjected to disciplinary or criminal proceedings. Such proceedings are required, whether Mr. Chrii was, as he alleges, severely tortured, or only subjected to lesser ill-treatment (still resulting in visible wounds) at the hands of the police, as the Government concedes. Similarly, the Special Representative is concerned at the lack of information with regard to any disciplinary or criminal action taken against the police who beat Mr. Amine.

401. Concerning the case of Mr. Tamek, the Special Representative welcomes the fact that Mr. Tamek was in the meantime issued a passport.

## **Myanmar**

### **Communiations sent**

402. On 18 October 2004, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **U Aye Kyu**, also known as "Monywa" Aung Shin, a former newspaper editor, **U Aung Myint**, also known as "Phyapon" Ni Loan Oo, a newspaper journalist, **U Tun Myint**, a teacher, **U Naing Naing**, also known as Saw Naing Naing, an elected member of Parliament, and **U Soe Han**, a former high court advocate, all of whom have been involved in the work of the National League for Democracy. According to the allegations received, **U Aye Kyu**, **U Tun Myint**, **U Naing Naing** and **U Soe Han**, who are currently detained in the Insein Prison, all suffer from serious health problems. **U Aye Kyu**

specifically suffers from asthma and respiratory problems. U Aung Myint is currently held in the Kalay Prison, approximately 600 miles away from Yangon, where prisoners allegedly rely on the provision of food and medicine from relatives. In September 2000, the five persons mentioned above participated in the writing of a statement that was broadcast over the radio protesting against the de facto house arrest of Daw Aung San Suu Kyi, leader of the National League for Democracy, as well as other members of that organization. On 14 December 2000, they were sentenced to 21 years' imprisonment by the Insein Jail Additional Military Tribunal for the violation of press and security laws, during a trial for which they did not have legal representation. In view of their reported poor health, concern is expressed for their mental and physical integrity if they do not receive prompt and adequate medical attention.

### **Observations**

403. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication.

## **Nepal**

### **Communications sent**

404. On 18 December 2003, 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 question of torture, sent an urgent appeal regarding Mr. **Ram Krishna Adhikari**, a reporter for the weekly "Saghu", who has reportedly been missing since 10 December 2003. He was last seen attending a human rights event organized by the Human Rights Organization of Nepal (HURON), at the Hotel Orchid in Kathmandu. According to reports, the journalist may have been detained by security forces and held at a secret location.

405. On 19 January 2004, the Special Representative sent an urgent appeal concerning Mr **Dinesh Raj Prasain**, Coordinator of the Collective Campaign for Peace (COAP), who was allegedly beaten by members of the Royal Nepali Army who also reportedly searched his residence in Banasthali. According to the information received, on 13 January six men in civilian clothes and who reportedly identified themselves as security personnel, arrived at his house demanding to search it for documents and materials. Dinesh Raj Prasain reportedly refused to open the door, following which one of the men allegedly produced a revolver and threatened to kill him. It is reported that the men then proceeded to break down the door and at least four of them, one of whom was reportedly referred to as "Major", allegedly started beating Mr Prasain and kicking him in the face, head, stomach and thighs while the other men carried out a search of his house. It is further reported that 15 members of the Nepali Army surrounded the building during the above incident. Additional reports indicate that Dinesh Raj Prasain has recently received death threats. Concern has been expressed that the alleged attack and threats against Dinesh Raj Prasain are a result of his human rights work.

406. On 4 March 2004, 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 question of torture, sent an urgent appeal concerning **Bhimsen Kumar Gautam**, a 40-year-old teacher and auditor from Dhuseni Shivalaya Village Development

Committee (VDC) in Kavrepalanchowk district, currently residing in Shreenagar Tole, Minbhawan, in Kathmandu municipality. He is reported to be a member of the Nepal National Teachers' Association, which is close to the Communist Party of Nepal - United Marxist Leninist (CPN-UML), and of the Nepal section of Amnesty International. He was reportedly questioned and arrested on 3 March 2004 by a group of men who entered the building where he rents a room and identified themselves as security forces personnel. His papers and citizenship documents were reportedly checked and he was allegedly told to get some clothes on and prepare to leave. It is also alleged that the security forces made a brief attempt to search the room before taking him away. It is reportedly not known why he was arrested. His whereabouts are reportedly unknown since then. Efforts by relatives to locate him, including informing the National Human Rights Commission, have so far been reportedly unsuccessful. In view of his alleged detention at an undisclosed location, fears have been expressed that he may be at risk of torture or other forms of ill-treatment.

407. On 20 April 2004, the Special Representative sent an urgent appeal regarding the situation of **Shiva Kumar Pradhan**, a human rights defender and secretary-general of the People's Forum for Human Rights and Development Bhutan (PFHRD). According to the information received, Shiva Kumar Pradhan was allegedly arrested on 19 September 2001 and charged with the murder of R. K. Budathoki, President of the Bhutan People's Party who was reportedly killed on 9 September 2001 in Damak, Jhapa. Due to his refugee status, Shiva Kumar Pradhan was reportedly denied bail and has allegedly been detained in the District Prison of Changdragari since 16 October 2001. It is reported that the publicly known facts surrounding the murder do not corroborate the charges brought against Shiva Kumar Pradhan. It is further reported that the final hearing of his case in the District Court of Changdragari has been postponed 18 times and that the reasons for the repeated postponements are allegedly unknown. The final hearing is reportedly scheduled for 2 May 2004. Concern has been expressed that the arrest and imprisonment of Shiva Kumar Pradhan and the reported delay in legal proceedings may be an attempt at hindering his human rights activities.

408. On 7 July 2004, the 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 violence against women, sent a follow-up urgent appeal concerning the case of **Maina Sunuwar**, a 15-year-old girl whose whereabouts are unknown since her alleged arrest on 17 February 2004. In this context, the special rapporteurs have also received information concerning Ms. **Bimala B.K.**, a 20-year-old resident of Kharelthok Village Development Committee (VDC) 4 of Kavre, who reportedly witnessed the arrest of Maina Sunuwar. According to the new information received, Bimala B.K. was arrested by the police of Bhagvati Station on 11 February 2004 at around 10 a.m., when she was returning home from Bhagvati Temple. She was arrested on suspicion of being a Maoist. It is reported that at Bhagvati Police Station, she was severely beaten on various occasions and hit with plastic pipes, her head was submerged into water, her knees and feet were slot with a sharp blade and salt and chilli powder were sprinkled over the injuries. She was reportedly gang-raped by soldiers during 15 consecutive nights. She is also reported to have been forced to take sedatives. According to the information received, on 18 February 2004 she was taken to Bhagvatisthan and forced to show to the police Maina Sunuwar's house. Maina Sunuwar was arrested and they were both taken together to Shantigate Army Barracks and to Panchkal Centre, where they were kept in separate rooms and beaten. Bimala B.K. later reported that she had heard

Maina Sunuwar screaming with pain. On 19 February 2004, Bimala B.K. was taken to Dhulikhel Police Station and has not seen Maina Sunuwar since then. Whenever she asked police about her location and condition, she was given varying responses. On one occasion she was told that she had been killed. On 24 March 2004, Bimala B.K. was transferred from Dhulikhel Police Station to a Women's prison. As far as the special rapporteurs have been informed, no detention warrant has been issued by any judicial authority. It is reported that a foreign diplomatic embassy was informed by the army that Maina Sunuwar was killed when she tried to escape from custody, that an autopsy was conducted and the body handed over to her family. However, her relatives sustain that they have never seen her body nor received any information about her fate. Finally, the special rapporteurs have received information according to which relatives of Maina Sunuwar are subjected to harassment and intimidation since her arrest.

409. On 12 August 2004, the 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 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 regarding several male transvestites and the **Blue Diamond Society of Nepal**, a NGO working with sexual minorities on sexual health including HIV/AIDS and campaigning for the rights of sexual minorities. According to the allegations received, on 9 August 2004, **39 male transvestites**, usually called metis, all members of the Blue Diamond Society, were arrested on the street and in public places including bars and restaurants. They are now held in Hanuman Dhoka police station and were not given food or water during the first 15 hours in custody. They have not yet been charged with any offence. Concerns have been expressed that their physical integrity may be at risk. On 25 July, the Police allegedly raped four male transvestites, **Jaya Bahadur Lama, Ramesh Lama, Binod and Madan**. They were reportedly stopped by the police at about 3.30 a.m. in a street near Jamal, forced into a police van, beaten and their money was taken away. While driving around the city, the van stopped and one officer allegedly took Jaya Bahadur Lama into the street, beat him, forced him to perform oral sex and raped him. The men were then reportedly taken to Gausala police station where Ramesh Lama was taken into the backyard of the police station, beaten and forced to perform oral sex. Although Jaya Bahadur and Ramesh Lama managed to escape from the police, Binod and Madan were kept inside the van and were reportedly beaten and raped by 12 policemen for around three hours. The Blue Diamond Society made a complaint to police authorities about this attack and there is concern that the recent arrests may be in retaliation for this complaint. A private writ was recently filed in the Supreme Court of Nepal against the Blue Diamond Society, which calls for closing down the Blue Diamond Society on the grounds that the organization "promotes homosexuality". Concerns have been expressed that defending this court action would seriously hinder the effective functioning of the Blue Diamond Society, given the organization's limited human and financial resources, and that closing down the Blue Diamond Society would be detrimental to HIV prevention efforts in Nepal. Concerns also have been expressed that other organizations working in the area of HIV prevention among gay men could be open to similar charges.

410. On 15 September 2004, 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, sent an urgent appeal regarding **Hira Lal Khadka**, chairman of the Rukum district branch of Human Rights and Peace Society (HURPES)l. According to the information received on 29 August 2004, at

approximately 8 p.m., Hira Lal Khadka was arrested at his home/office in Jumlikhalanga, Rukum district, and taken to Rukum District Police Office. It is reported that prior to his arrest, an estimated 40 to 50 police officers surrounded the building and searched his home. It is further reported that a detention order has been issued against Hira Lal Khadka under the Terrorist and Disruptive Activities (Punishment and Control) Act (TADA) authorizing his detention for 90 days without trial. In the days subsequent to his arrest he was allegedly given a letter in which he was accused of publishing pamphlets written by relatives of members of the Communist Party of Nepal (CPN) (Maoist) who have "disappeared". Sources indicate that these pamphlets appealed to the authorities to make known the whereabouts of the "disappeared". After three days in detention, representatives of civil society were allowed to visit him and according to reports received it is feared that he may have been subjected to ill-treatment. On 6 September, Hira Lal Khadka was reportedly transferred to Nepalgunj Prison, Banke district,, where he remains in detention. Concern has been expressed that Hira Lal Khadka may have been arrested and detained as a direct result of his human rights activities as chairman of HURPES and in particular his public condemnation of human rights violations, including disappearances, allegedly committed by the security forces. Further concern has been expressed for the safety of Hira Lal Khadka after the alleged killing of a member of HURPES, Dekendra Raj Thapa, on 11 August 2004 .

411. On 15 September 2004, the Special Representative sent an urgent appeal regarding **Dekendra Raj Thapa**, a journalist with *Radio Nepal*, human rights defender and member of the Dailekh district branch of Human Rights and Peace Society (HURPES). According to the information received, on 27 June 2004, Dekendra Raj Thapa was reportedly abducted and detained by a group of CPN-Maoists who had summoned him to discuss a drinking water project that he had been managing. On 11 August 2004, it is alleged that Dekendra Raj Thapa was killed by his Maoist captors who cited 10 charges against him, including acting as master of ceremonies at an event attended by the King of Nepal, corruption in a local drinking water project and being on the payroll of the army to spy against Maoists. Following the killing it is alleged that the Maoists have issued further death threats against nine other journalists. Concern has been expressed that Hira Lal Khadka may have been killed as a direct result of his human rights activities as a member of HURPES and in particular his public condemnation of human rights violations committed by Maoists. Further concern has been expressed for the safety of all journalists in Nepal in the light of these recent threats.

412. On 11 October 2004, the Special Representative sent an urgent appeal concerning **Durga Thapa**, a newspaper reporter and representative of the Informal Sector Service Centre (INSEC), a Nepali human rights organization. According to the information received, on 29 July 2004, Durga Thapa accompanied a team of human rights defenders and journalists who visited Rahakul Ranibas Village Development Committee (VDC), Surkhet district, in order to search for information concerning people abducted by the Maoists and lobby for their release. Allegedly, three days later, Durga Thapa was abducted by the Maoists when the team was leaving the village, and the Maoists accused him of "activities against the people's regime" and detained him in a labour camp. It is reported that Durga was released on 16 August. Allegedly, Durga Thapa has later received death threats from Maoists and has also been threatened that he may again be abducted by the Maoists. Concern has been expressed that the reported harassment of Durga Thapa may be a direct result of his human rights activities as a member of the Informal Sector Service Centre.

413. On 14 October 2004, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, sent a follow-up urgent appeal concerning **Bimala B. K.** According to new information received, she is currently held in Kathmandu Prison, having been in custody for almost six months without charge, and subjected to torture. In view of the earlier allegations of torture, concern is expressed that she may continue to be at risk of torture or other forms of ill-treatment. Moreover, concern is heightened by recent reports confirming that **Maina Sunuwar**, whose arrest and beating was witnessed by Bimala B. K., died in custody.

### **Observations**

414. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted any replies to her communications. She refers to her main report to the Commission on Human Rights for a detailed analysis of the trends in the situation of human rights defenders in Nepal, and for her observations to these trends. She encourages the Government to review favourably her request sent on 14 October 2003 and reiterated on 2 December 2004 for an invitation to conduct an official visit to the country in 2005.

## **Nigeria**

### **Responses received to communications sent by the Special Representative in previous years**

415. By letter dated 2 April 2004, the Government replied to the urgent appeal sent on 14 November 2003 concerning **Churchill Ibeneche**. The Government informed that the allegations cannot be investigated, as the Nigerian authorities have no record of existence of the C3RJ. It stated that the Special Representative might wish to provide additional information on the C3RJ and its Executive Director to enable investigation to be carried out.

### **Observations**

416. The Special Representative thanks the Government for its response to her communication. She also wishes to thank the Government for granting her request for an invitation to conduct an official visit and looks forward to conducting her visit to the country in May this year.

## **Pakistan**

### **Communications sent**

417. On 31 March 2004, 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 regarding the situation of **Dr. A.H.Nayyar**, a peace activist, anti-globalization campaigner and former professor of Quaid - i - Azam University. According to the information received, during April and May 2003, Dr. Nayyar and a group of students staged a protest outside Kentucky Fried Chicken and Pizza Hut restaurants in Islamabad in protest against the

Iraq war and as part of a general campaign to boycott goods from the United States. According to the information received, the police were initially cooperative with the demonstrators until they reportedly came under pressure from the franchise management to stop the demonstration. It is reported that on 9 April 2003, a minor confrontation took place in which the police pushed the demonstrators back and stopped them from using a megaphone and from shouting slogans. No further confrontation was reported and the demonstration allegedly continued peacefully for another month. However, according to the information received, on 9 April 2003, a criminal case was registered against Dr. Nayyar for his involvement in the demonstration. No further action was reportedly taken until 24 March 2004 when two policemen allegedly came to his office and reportedly informed him that a First Information Report (F.I.R) had been filed against him and advised him to obtain bail before his arrest. The F.I.R reportedly states that Dr. A.H. Nayyar and his colleagues had staged an unlawful demonstration. Concern has been expressed that the registration of a criminal case against Dr. Nayyar may be an attempt at hindering his human rights work.

418. On 7 April 2004, the Special Representative, together with the Special Rapporteur on violence against women and the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal regarding the situation of **Uzma Noorani**, secretary-general of Panah Shelter Home for Women and a council member of the Human Rights Commission of Pakistan. According to the information received, in 2002 Uzma Noorani provided shelter in the Panah Shelter Home for Women to a woman who had allegedly been tortured by her husband, a major in the army. It is reported that during this time, the husband of the woman, whose name is known to the Special Representative, harassed and threatened to kill the staff of Panah for having granted asylum to his wife. The woman reportedly returned to her husband two months later. However, her husband reportedly obtained the contact details of Uzma Noorani and has subjected her and her family to constant harassment and intimidation with threatening and abusive telephone calls. She reportedly filed a complaint on 26 April 2003 with the commander of the army and the Citizen Police Liaison Committee (CPLC). The commander reportedly informed her that she would no longer be harassed. She allegedly did not receive a reply from the CPLC. The harassment reportedly stopped following her complaint but has reportedly begun again. A further complaint was filed on 25 February 2004 with the police, including the Senior Superintendent of Police in Islamabad Mr Shaid Nadeem Balouch. However, no action has reportedly been taken by the authorities to protect Uzma Noorani and her family. Concern has been expressed that Uzma Noorani is being targeted for her work on women's rights.

419. On 9 June 2004, the Special Representative, together with the Special Rapporteur on violence against women, sent an urgent appeal in connection with information received that **Samina Khokhar**, sister of Irfan Khokhar, has received a death threat from unknown men who are believed to be connected to the perpetrators of her brother's murder. It is reported that Irfan Khokhar was the information coordinator of Peace Worldwide, a Christian organization based in Islamabad who was murdered by three men on the night of 7 February 2004. According to the information received, on 25 May 2004, two unknown men followed Samina Khokhar in Islamabad and called her at her workplace, saying that she would be killed because her family had not withdrawn the complaint against the three perpetrators involved in her brother's murder, including Hafiz Atta ur Rehman. She is now said to be in hiding, and her other brother, Imran Khokhar, also has reportedly had to leave his home due to continuous threats. Since Irfan Khokhar's death, the victim's family has reportedly been threatened by Hafiz Atta ur Rehman,

who is believed to be the primary suspect responsible for the killing. In addition, staff members of Peace Worldwide have also allegedly received threats from the perpetrators. Although the police have arrested one suspect, Hafiz Atta ur Rehman and the other suspect are still at large, and the police have reportedly not taken any serious action to protect witnesses and the victim's family. In this context the special rapporteurs requested that protection be provided to the victim's family and witnesses and that justice is rendered in this case.

### **Communications received**

420. By letter dated 16 June 2004, the Government replied to the communication sent by the Special Representative on 31 March 2004 in connection with the situation of **Dr A.H.Nayyar**. According to the Government, on 9 April 2004, the police filed a FIR against the Dr A.H.Nayyar and several other protestors for violations against section 144 (holding a protest demonstration without obtaining prior permission). The Government stated that the accused filed for a writ in the Lahore High Court Rawalpindi Bench challenging the aforementioned FIR. The same Court ruled in favour of the accused and the FIR was quashed on the grounds that it had been lodged without any lawful authority.

421. By letter dated 14 July 2004, the Government replied to the communication sent by the Special Representative on 9 June 2004 with reference to a death threat received by **Samina Khokhar**. The Government confirmed that the police in Islamabad were willing to provide the victim with protection. However, it noted that the whereabouts of the aforementioned are unknown. The police recommended that Samina Khokhar inform them of her place of work and residence.

422. By letter dated 15 October 2004, the Government replied to the communication sent by the Special Representative on 7 April 2004 regarding the situation of **Uzma Noorani**. The Government informed the Special Representative that a FIR had been filed against Uzma Noorani on 1 October 2003, leading to her subsequent arrest and appearance before a judge. However, the necessary preventative action has been prepared and sent to the Court.

### **Observations**

423. The Special Representative thanks the Government for its replies to the communications sent. She welcomes the termination of the criminal proceedings against Dr. Nayyar. The Special Representative remains concerned, however, about the case of Ms. Noorani. It appears from the Government's reply that instead of being shielded by the authorities against the threats and other harassment she is enduring as a result of her work in the defence of women subjected to domestic violence, Ms. Noorani is now herself the subject of criminal proceedings.

## **Peru**

### **Comunicaciones enviadas**

424. El 10 de mayo de 2004, la Representante Especial, junto con el Relator Especial sobre la tortura, el Relator Especial sobre el derecho a la libertad de opinión y de expresión y el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la

pornografía, envió una carta de alegación. Los relatores especiales y la Representante Especial han recibido información según la cual cerca de **150 niños y adolescentes** que viven o trabajan en la calle en Lima, así como **algunos adultos que los acompañaban**, habrían sido víctimas de un uso excesivo de la fuerza por parte de la policía el 20 de noviembre de 2003, durante la represión de una manifestación convocada por asociaciones comprometidas con niños que viven o trabajan en la calle: el Movimiento Nacional de Niños y Adolescentes Trabajadores organizados del Perú (MNNATSOP), el Movimiento de Niños y Adolescentes Trabajadores Hijos de Obreros Cristianos (MANTHOC), el Instituto de Formación para Educadores de Jóvenes Adolescentes y Niños Trabajadores de América Latina y el Caribe (IFEJANT) y Generación. La manifestación se habría organizado para conmemorar el aniversario de la Convención de los Derechos del Niño y para pedir pacíficamente una mejor protección de los derechos del niño. De acuerdo con la información recibida, la manifestación se desarrollaba pacíficamente hasta que la policía intervino para disolverla a la fuerza en la Plaza Mayor. Los agentes de policía habrían utilizado gases lacrimógenos y golpeado con porras a los manifestantes, a quienes también habrían dado patadas. Bebés que se encontraban en los brazos de sus madres también habrían sido golpeados. Algunas personas se habrían desmayado y otras habrían sufrido contusiones. A modo de justificación de su actuación, la policía habría alegado que la manifestación era ilegal por no respetar el decreto de la Alcaldía mediante el cual se prohibiría toda manifestación pública en el centro de Lima. Se alega que para no infringir este decreto, las organizaciones de niños trabajadores habrían adelantado una protesta no violenta con pequeños grupos que ingresaban a la plaza por turnos, exigiendo el respeto a los niños y el reconocimiento y plena ciudadanía de la niñez como un sujeto de derecho, como actores protagonistas de la sociedad. Se alega igualmente que 13 manifestantes habrían sido detenidos por las fuerzas policiales pertenecientes a la Unidad de Servicios de Control de Disturbios de la Policía. Entre ellas, Enrique Jaramillo, coordinador de Generación, habría sido golpeado e insultado cuando se encontraba bajo custodia policial. Tres menores, una joven de 14 años de edad y dos varones de 10 y 12 años, todos niños de la calle, habrían sido trasladados a un centro de detención preventiva y liberados el 22 de noviembre de 2003.

425. El 18 de mayo de 2004, la Representante Especial, junto con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente sobre la situación de **Catalina Castillo León**, un testigo del supuesto secuestro y asesinato de seis miembros de su familia en 1992. Según la información recibida, el 24 de junio de 1992, diez hombres vestidos en uniformes parecidos a los del ejército y al parecer miembros del Grupo Colina, un grupo que presuntamente hacía parte orgánica de la estructura del Servicio de Inteligencia de Perú habrían secuestrado a Rafael Ventocilla Rojas, alcalde del Distrito de Cochamarca, sus hijos Alejandro, Simon y Paulino, su nieto Rubén y su hermano Marino. Catalina Castillo León habría denunciado la detención de sus familiares ante la policía. Según los informes, los cuerpos de los seis integrantes de su familia habrían sido hallados el día siguiente sepultado en una fosa común cerca de la carretera Huara-Sayán. Según los informes, la investigación se encuentra actualmente en la fiscalía especializada. Catalina Castillo León habría pedido a la Comisaría de Huaura de constatar los hechos pero el comisario responsable quien, al parecer es familiar de un miembro del Grupo Colina, habría mostrado reservas antes este pedido. En este contexto y según la información recibida, el 6 de mayo de 2004, un grupo de diez individuos, uno de ellos vistiendo traje de policía, habría irrumpido violentamente en el domicilio de Catalina Castillo León en Provincia de Guacho. Los hombres la habrían amenazado con darle muerte tal como ocurrió a los seis miembros de su familia. Se teme que esta reciente

amenaza contra Catalina Castillo León esté relacionada con su actividad de solicitar una investigación independiente e imparcial tras el asesinato de seis miembros de su familia.

426. El 19 de julio de 2004, la Representante Especial envió una carta de alegación sobre la situación de seguridad de **Mario Huamán Rivera**, Presidente de la Confederación General de Trabajadores del Perú, organizador de la huelga general del pasado 14 de julio de 2004 en Lima. Según las informaciones recibidas, el 6 de julio de 2004 la esposa de Mario Huamán Rivera habría recibido, de manos de un repartidor, un ramo de flores y un paquete envuelto. Según los informes, diez minutos después habría recibido una llamada telefónica anónima en la que le habría preguntado sobre el regalo y le habría recomendado que no lo abriera porque contenía una bomba. La esposa habría llamado a la policía que se habría llevado el paquete y que luego confirmaron que contenía una granada. Según se informa, la policía habría abierto una investigación sobre esta amenaza de muerte. Se teme que esta amenaza de muerte pueda estar relacionada con el trabajo de Mario Huamán como Presidente de la Confederación General de Trabajadores del Perú y en particular su trabajo de organizador de la huelga del 14 de julio para pedir mejores condiciones de vida y para oponerse a la política económica del Gobierno.

427. El 7 de septiembre de 2004, la Representante Especial, junto con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, el Relator Especial sobre la tortura, el Relator Especial sobre la independencia de magistrados y abogados y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente en relación con **Luis Alberto Ramírez Hinostroza**, quien fue víctima de tortura durante la dictadura militar y quien es ahora uno de los testigos principales ante la Comisión de la Verdad y Reconciliación del Perú y en el proceso judicial contra un general retirado acusado de la desaparición forzada de nueve personas en 1991. De acuerdo con la información recibida, Luis Alberto Ramírez Hinostroza habría recibido amenazas de muerte y ataques contra su persona en varias ocasiones durante los últimos meses. El 13 de marzo de 2004, cuatro individuos habrían disparado contra él llamándole “bocón” mientras le perseguían. El 6 de mayo, habría recibido una carta con amenazas junto con dos fotografías de su hija y su esposa. En julio del mismo año, habría recibido otras amenazas de muerte en su casa. En otra ocasión, cuando visitó el lugar donde habría sido torturada años atrás, unos soldados lo habrían fotografiado y habrían amenazado con detenerle. A finales de agosto de 2004, Luis Alberto Ramírez Hinostroza habría notado que alguien le estaba siguiendo. Seguidamente habría solicitado ayuda ante la procuraduría de Huancayo. Sin embargo le habrían informado que el funcionario solicitado no se encontraba y habría tenido que irse sin protección policial. Dos días más tarde, el 30 de agosto, un hombre y una mujer le habrían disparado desde un vehículo negro cerca de su casa, en El Tambo, Huancayo. Luis Alberto Ramírez Hinostroza habría resultado herido en el estómago y habría sido conducido al Hospital El Carmen, donde habría sido operado. Se alega que la Comisión Interamericana de Derechos Humanos pidió al Gobierno peruano, el 2 de agosto de 2004, que tomara las medidas necesarias para garantizar su seguridad. Antes del último ataque, habría recibido una carta oficial en la que se le indicaba que se le otorgaban garantías personales, pero no se le habría proporcionado asistencia física. Actualmente, dos agentes de policía estarían encargados de su seguridad en el hospital. Sin embargo las autoridades todavía no le habrían garantizado la asistencia de guardaespaldas para más adelante. A la luz de estas alegaciones, se han expresado temores por la seguridad de Luis Alberto Ramírez Hinostroza y la de su familia.

428. El 22 de noviembre de 2004, la Representante Especial, junto con el Relator Especial sobre la promoción y la protección del derecho a la libertad de opinión y de expresión y el

Relator Especial sobre la independencia de magistrados y abogados, envió un llamamiento urgente sobre la situación de **Gloria Cano**, abogada y defensora de los derechos humanos de la organización no gubernamental Asociación Pro Derechos Humanos (APRODEH), quien habría recibido recientemente amenazas de muerte. De acuerdo con las informaciones recibidas, el 20 de octubre de 2004, Gloria Cano se encontraba en las oficinas de APRODEH en Lima cuando recibió el mensaje de texto siguiente en su teléfono móvil: “Hola perra, nos estamos en la cárcel, cuídate hasta de tu sombra, te vas a reunir con el terruco en el infierno yelmo”. Gloria Cano habría sido ya previamente víctima de un acto de intimidación en enero de 2003, cuando habría sido rodeada, insultada y golpeada por un grupo de individuos no identificados delante de las oficinas de APRODEH. Gloria Cano denunció la amenaza de muerte ante la Fiscalía de la Nación, el 25 de octubre. La CIDH ha pedido al Estado peruano que les informe cuales medidas está tomando para investigar esta denuncia. Según se informa, Gloria Cano recibió la amenaza al día siguiente de la publicación de un comunicado de prensa de APRODEH que mostraba su preocupación por la excarcelación de Vladimiro Montesinos (ex -asesor presidencial sobre inteligencia), Nicolás Hermoza Ríos (ex -comandante en jefe de las fuerzas armadas) y Roberto Huamán Azeurra (ex -director del Servicio de Inteligencia Militar), que habían permanecido detenidos los últimos 18 meses por su presunta implicación en el homicidio de tres miembros del grupo armado de oposición Movimiento Revolucionario Túpac Amaru durante una operación militar de 1997. Los acusados habrían sido excarcelados porque, a causa de las demoras en el juicio, habían excedido el plazo máximo de detención preventiva permitido por la ley. Gloria Cano es el abogado de las familias de las víctimas desde 2001 y se supone que las amenazas recibidas estén relacionadas con su trabajo de abogado y defensor de los derechos humanos en relación con este caso.

429. Por carta fechada el 7 de julio de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 10 de mayo de 2004 con respecto al supuesto uso excesivo de la fuerza por parte de la policía en contra de **150 niños y adolescentes que viven o trabajan en la calle en Lima**, así como **algunos adultos que los acompañaban** durante una manifestación convocada por asociaciones comprometidas con niños que viven o trabajan en la calle. El Gobierno informó que los intervenidos y aproximadamente otras 80 personas, en proceso de identificación, se reunieron en la Plaza Mayor donde se concentraron para realizar una manifestación con ocasión de celebrarse un aniversario de la Convención sobre los Derechos del Niño, propiciando actos violentos, en su intento de ingresar al centro de Lima, zona declarada “restringida” por un mandato municipal. Por tal razón, los efectivos policiales les habrían conminado para que dejaran su actitud de fuerza. No obstante, éstos atacaron a los custodios del orden, quienes se habrían vistos obligados a lanzar gases lacrimógenos; en estas circunstancias, habría intervenido un mayor contingente policial siendo también atacados y herido el mayor Fernando Vergara García. Como consecuencia habría capturado “in flaganti” a 13 personas. El Atestado Policial habría llegado a las siguientes conclusiones: a) Que las personas identificadas y otras 80 aproximadamente en proceso de identificación son presuntos autores del Delito contra la Tranquilidad Pública (Contra la Paz Pública –Alteración del Orden Público-Disturbios y Asociación Ilícita para Delinquir), Delito Contra la Administración Pública Cometido por Particulares-(Violencia y Resistencia a la Autoridad ); b) No se habría encontrado indicios de daños materiales en la propiedad pública ni privada en la Plaza Mayor y calles aledañas; c) Se deja a la Autoridad Judicial competente, se pronuncie sobre las situación legal de la dos ciudadanas norteamericanas, y si se habría infringido la Ley de Extranjería; d) Se pone a disposición de la Autoridad Judicial competente a X, quien a ser detenido dijo llamarse y se

pronuncie sobre su situación legal al haber utilizado otro nombre; e) No de habría recibido las respuestas de la informaciones solicitadas a las diversas entidades, así como los RML que acrediten las lesiones de los intervenidos y efectivos de la Policía, cuyos resultados una vez recabados se remitirán a la Autoridad Judicial Competente; Hasta el momento no habría sido posible identificar a las otras 80 personas que habrían participado en los ilícitos penal detallados arriba. En consecuencia se habría formalizado denuncia penal contra los manifestantes que irrumpieron en la Plaza Mayor por los delitos de Delito contra la Tranquilidad Pública – Delitos contra la Paz Pública, Disturbios en agravio de la Sociedad, de acuerdo con el artículo 315 del Código Penal. El estado actual del proceso correspondería a la etapa inicial de la investigación. Asimismo las denuncias contra las dos ciudadanas norteamericanas habrían sido archivadas de manera definitiva.

430. Por carta fechada el 23 de septiembre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 7 de septiembre de 2004 con respecto a las amenazas de muerte y ataques contra **Luis Alberto Ramírez Hinostroza**. El Gobierno transmitió un informe del Consejo Nacional de Derechos Humanos. Este informe indica que el 31 de agosto 2004, el Ministro de Justicia, el Dr. Carlos Gamarra Ugaz, remitió un oficio al despacho del Viceministro del Interior reiterando las medidas cautelares necesarias para garantizar la integridad personal de Luis Alberto Ramírez Hinostroza. El Viceministro del Interior fue informado el 1º de septiembre 2004 que el General PNP Adolfo Alfaro Zúñiga, Director de la VII-DIRTEPOL en Huancayo, habría recibido a través de un memorándum del General PNP Percy Soria Medina, director general de la Policía Nacional de Perú el orden que se procederá “de inmediato a instalar servicio de seguridad personal al agraviado, con dos efectivos policiales, durante las 24 horas del día hasta nueva orden”. También, el personal especializado de la JEFICAJ está en carga de realizar las investigaciones correspondientes con el propósito de identificar, ubicar y capturar a los autores en coordinación con el representante del Ministerio Público. Además, el Consejo Nacional de Derechos Humanos informó que el prefecto Regional de Junin, mediante un oficio de fecha de 4 de agosto 2004, señaló que el 22 de marzo 2004, el Dr. Eduardo Torres Gonzales, Juez Penal se dirigió a la prefectura de Junin para brindar las garantías personales a Luis Alberto Ramírez Hinostroza. En base a la petición del órgano jurisdiccional, el 15 de abril 2004, se emitió una resolución prefectoral en Junin otorgando garantías personales a favor de Luis Ramírez Hinostroza y su familia, en contra de Luis Perez, contra quién tiene un proceso judicial por derechos humanos (tortura). Además, Dilma Clemente, Juez del Cuarto Juzgado Penal, se ha dirigido al prefecto de la provincia de Huancayo para solicitar las garantías personales al agraviado. La Secretaria Ejecutiva del Consejo Nacional de Derechos Humanos del Ministerio de Justicia ha remitido oficios el 4 de agosto 2004 a varias agencias del Estado solicitando información. La Secretaria Ejecutiva del Consejo de Derechos Humanos deja constancia que no ha recibido información relacionada a medidas concretas adoptadas con la finalidad de protección al Señor Ramirez Hinostroza hasta el 30 de agosto.

431. Por carta fechada el 14 de octubre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 18 de mayo de 2004 con respecto a las amenazas de muerte y ataques en contra de **Catalina Castillo León**. El Gobierno transmitió una nota de información proporcionada por el Consejo Nacional de Derechos Humanos. En un oficio de fecha 5 de julio 2004, Dr. Felix E. Salazar Huapallo, Fiscal Superior Decano, Distrito Judicial de Huaura, indicó al Fiscal Superior Titular, Representante del Ministerio Público ante el Consejo Nacional de Derechos Humanos, que había recibido información del Coronel PNP José Campos

sobre la intervención policial realizada el 6 de mayo 2004 en el domicilio de Catalina Castillo León. Los motivos y circunstancias de la intervención policial fueron en el marco del Operativo “Delincuencia 2004”, cuyo objetivo era ubicar y capturar a los autores del asesinato del empresario Jorge Wetterman Rivas. Un hijo de la Sra. Castillo León, Wilbert Ventocilla Castillo, fue acusado del delito “Contra el Patrimonio” – robo agravado y subsiguiente homicidio del ingeniero Wetterman Rivas y fue buscado por la policía. Wilbert Ventocilla Castillo huyó en un vehículo. Además, el Fiscal Superior Decano, Distrito Judicial de Huaura, no tiene conocimiento de alguna denuncia o queja presentada directamente por la Sra. Castillo León, asimismo tampoco otra denuncia en la Primera y Segunda Fiscalía Provincial Penal del Distrito.

432. Por carta fechada el 23 de diciembre 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 22 de noviembre de 2004 sobre la situación de **Gloria Cano Legua**, abogada y defensora de los derechos humanos de la organización no gubernamental Asociación Pro Derechos Humanos (APRODEH). El Gobierno informó que la Fiscalía Penal ingresó la denuncia presentada por Gloria Cano, por delito contra la libertad, en contra de los responsables, y que dicha denuncia fue remitida a la División de la Policía del Ministerio Público con el fin de llevar a cabo las investigaciones preliminares. Asimismo, el Gobierno informó que el 5 de noviembre de 2004, la Policía Nacional dispuso la adopción de una serie de medidas en relación con la solicitud de medidas de seguridad solicitadas por Gloria Cano. En particular, se dispuso otorgar servicio de seguridad y vigilancia del local de APRODEH a cargo de la Comisaría PNP de Jesús María y brindar medidas de protección personal a la Doctora Gloria Cano, así como efectuar las investigaciones del caso con relación a su denuncia.

### **Observaciones**

433. The Special Representative would like to thank the Government for its detailed responses. She welcomes the steps taken to improve the situation of human rights defenders, in particular, the police protection programmes offered to a number of victims of death threats and serious physical attacks. Nevertheless, she remains concerned by the gravity of the threats levied against human rights defenders in Peru. Furthermore, the Special Representative would like to voice her concern for the present safety of Mr. Hinojosa since the termination of the protection measures granted to him by the Government on 30 August 2004. Finally, the Special Representative would be grateful if the Government would take the opportunity to inform her of any measures taken to prevent the harassment of human rights defenders in Peru.

## **Philippines**

### **Communications sent**

434. On 21 January 2004, the Special Representative, 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 Arbitrary Detention, sent a communication concerning the situation of **Jose Suplaag**, the spokesperson of the Union of Farmers in Danao City (PAMADA). The allegation is that he was arrested and tortured by members of 78th Infantry Battalion in Brgy Damalog, Sogod, Cebu. According to the information received, on 2 December 2003, a group of armed soldiers reportedly arrived at the farm of Jose Suplaag in Pili,

claiming that subversive documents had been found in his possession, proceeded to arrest him by force. He was then allegedly taken to the headquarters of the 78th Infantry Battalion where he was accused of being a member of the New People's Army, which Jose Suplaag reportedly denied. He was then allegedly tortured for two days by his captors, who wrapped his head with a plastic bag full of crushed pepper until he was at the point of fainting, then punched him in the back with their elbows and threatened him with summary execution if he did not admit his membership of the NPA. Jose Suplaag, reportedly illiterate, was made to sign a document without being informed of its contents. It is further alleged that, on 4 December, Jose Suplaag was taken to Danao City Jail and charged with illegal possession of firearms in a case filed by his captors at the Regional Trial Court, Branch 25. Fear has been expressed that the alleged arrest and torture of Jose Suplaag may represent a form of reprisal for his work with PAMADA in the defence, in particular denouncing the alleged human rights violations committed by the 78th Infantry Battalion.

435. On 1 March 2004, the Special Representative sent an allegation letter regarding the killings of **Juvy Magsino**, a human rights lawyer, the Chairperson of Mindoro for Justice and Peace and Vice Mayor of Naujan in Mindoro Oriental and of **Leim Fortu**, a volunteer at Mindoro for Justice and Peace and the Acting Secretary General of Karapatan-Mindoro Oriental. According to the information received, on 13 February 2004 Juvy Magasino and Leim Fortu were on their way by car to the house of a friend in Pingagsbangan Naujan. After passing through Curba, they were reportedly followed by two men on a motorcycle with no licence plate who are believed to be members of the 204th Infantry Brigade. It is reported that in Barangay Amuguis, 100 metres from the headquarters of the 204th Infantry Brigade (IBPA), the men fired at the human rights defenders' vehicle with a 9mm gun and a rifle. Juvy Magasino reportedly received three gunshot wounds to her head and chest and Leim Fortu received gunshot wounds to her chest, right ear, knee and shoulder. Both women reportedly died from their wounds. According to the information received, Juvy Magasino, who was running for Mayor of Naujan in Mindoro Oriental, had reported to the Karapatan Southern Tagalog Office that she had received two death threats informing her that she would not live beyond 15 February 2004. Concern has been expressed that the killings may be connected to the human rights activities of the two women and in particular to the criticism voiced by Juvy Magasino about the increased military deployment in the island province. The allegation also suggested that she had spoken out on the involvement of a former 204th IBPA commanding officer in the alleged killings of the Karapatan-Southern Tagalog Secretary General, Eden Marcellana, and Chairman of Kasama-TK, Eddie Gumanoy, in April 2003.

436. On 24 September 2004, the Special Representative sent an allegation letter in connection with the death of **Rashid Manahan**, a human rights defender, executive director of the Community Resource and Development Center (CRDC), a non-governmental organization based in Boliao District, Supermarket Area, and Mindanao coordinator of the Mamamayan Tutol sa Bitay Movement for Restorative Justice. According to the information received, on 24 August 2004, Mr. Rashid Manahan, was killed in broad daylight in front of Ponce Suites, Bajada, in Davao City. It is alleged that he was with Prof. Nymia Simbulan, Executive Director of Philrights and Ms. Martha Alvarez, a representative of the European Union. The three were on their way to attend a forum against the death penalty in Mindanao. Mr. Manahan was reportedly killed by the Davao Death Squad that is linked to more than 100 unsolved killings. Concern has

been expressed that the murder of Mr. Rashid Manahan is the result of his dedication to the defence of human rights.

### **Observations**

437. The Special Representative regrets that, at the time of the finalization of this report, the Government had not transmitted a reply to her communication. She expresses serious concerns at the reported killings of human rights defenders in the country.

## **Republic of Korea**

### **Communications sent**

438. On 19 January 2004, the Special Representative sent an urgent appeal regarding the alleged arrest and deportation of two Bangladeshi human rights defenders by the South Korean authorities. According to the information received, **Khademul Islam Bidduth**, leader of the Equality Trade Union Migrants Branch (ETU-MB) and **Jamal Ali**, an active member of the migrant movement, were arrested by police in the Republic of Korea on 26 October 2003 while taking part in a demonstration against an alleged crackdown on migrant workers by the Government, which began on 24 October. The allegation is that, following their deportation to Bangladesh, they were held in detention until 4 January 2004, apparently for their association with trade unions and civil society groups. Reports have also been received regarding alleged violence in the treatment of other ETU-MB members by police and immigration authorities during the above mentioned demonstrations.

### **Communications received**

439. By letter dated 4 June 2004, the Government replied to the communication sent by the Special Representative on 19 January 2004 in connection with the alleged arrest and deportation of two Bangladeshi human rights defenders by the South Korean authorities. In its response, the Government questioned the status of the accused as human rights defenders. According to the Government, **Khademul Islam Bidduth** and **Rasul Hossen** were illegal migrants in violation of several articles of the Immigration Control Act; in particular, articles 17 (residing illegally) and 7 (travelling under a false passport), respectively. As a result, they were deported to Bangladesh on 31 December 2003. In its response, the Government expressed its confidence that any action taken against the deported persons is in conformity with the sovereign law of the Republic of Korea. It also emphasized that the petitions filed by the accused on two occasions were dismissed by the National Human Rights Commission, an independent body. In response to the allegations of police violence and ill-treatment towards "Equality Trade Union – Migrants' Branch" demonstrators, the Government denied all accusations. Indeed, the Government informed the Special Representative that both Khademul Islam Bidduth and Rasul Hossen had assaulted police officers who attempted to curtail the spread of the demonstration into unauthorized areas of the city.

### **Observations**

440. The Special Representative thanks the Government for its response to her communication.

### **Russian Federation**

#### **Communications sent**

441. On 26 January 2004, the 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 extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture, sent a letter of allegation concerning **Aslan Davletukaev**, a human rights defender who had been working as a volunteer with the Society of Russian-Chechen Friendship (SRCF) since 2000, in particular gathering information on the situation of human rights in Chechnya for the SRCF Information Centre. According to the information received, on 10 January 2004 at 22:15, approximately 50 armed men in three military and two civilian vehicles, arrived at the home of Aslan Davletukaev in Avtury, where they reportedly beat him and forced him at gunpoint into one of their cars. It is reported that on 16 January, the body of Aslan Davletukaev, apparently showing signs of torture and mutilation, was found by reconnaissance units of the Russian army near a highway at the entrance to Gudermes. His death was reportedly the result of a bullet wound to the back of the head.

442. On 28 January 2004, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal concerning the situation of Mr. **Imran Ezhev**, human rights defender and Chairperson of the Chechen and Ingush Branch of the Society of Russian-Chechen Friendship (SRCF). According to the information received, Imran Ezhev was returning home to Ingushetia on 26 January when he was reportedly followed by a grey model Zhiguli car without licence plates, thought to belong to the security service of the Chechen president. It is reported that Imran Ezhev was investigating the reported abduction and killing of Aslan Sheripovich Davletukaev, a volunteer with SRCF. Fear has been expressed that Imran Ezhev may be targeted for his human rights work, in particular his efforts to bring about accountability for the reported killing of his former colleague. Concerns are heightened by the fact that three members of SRCF have reportedly been killed to date, allegedly including Imran Ezhev's brother. The concerns of the special rapporteurs are further heightened by the fact that Imran Ezhev was reportedly subject to previous harassment by the authorities in 2001 and to an alleged abduction attempt from his home in Yandariye Camp on November 2002.

443. On 12 February 2004, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning the situation of **Alkhazur Bataev**, a volunteer with the Society for the Russian-Chechen Friendship, and his wife **Larisa Vakhaevna Batateva**, who have both reportedly been active in the defence of the rights of migrants and refugees. According to the information received, on 29 January 2004, Larisa Vakhaevna Batateva, reportedly met the Chairperson of the Committee of Human Rights of the Russian Federation during her visit to the Sathsita refugee camp and reportedly informed her about violations committed against forced migrants. Following this, Larisa Vakhaevna Batateva was allegedly threatened by the head of administration of her native village of Zakan-Yurt, who declared that her family "would have problems" if she and her husband did not stop their "propaganda activities". On 10 February 2004, according to the

allegations received, Alkhazur Bataev, who is registered as a forced migrant and holds a Russian passport, was detained by the chief police officer and other representatives of Sunzha police in Sathsita refugee camp and is being held at Sunzha police office, although the police have not confirmed his whereabouts. Alkhazur Bataev has reportedly also been involved in reporting human rights violations committed by officials of the Migration Service of Ingushetia at the Sathsita refugee camp. The special rapporteurs expressed concern that his detention may represent a reprisal for their activities in reporting human rights violations committed against forced migrants.

444. On 24 February 2004, 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, sent an urgent appeal concerning reports that on 23 February 2004, a peaceful meeting in central Moscow to oppose the ongoing armed conflict in Chechnya and to commemorate the sixtieth anniversary of the mass deportation of the Chechen people from Chechnya to Kazakhstan, was broken up by the police. It is reported that as the demonstrators commenced a minute of silence to commemorate the victims of the Chechnya conflict, the police moved in and detained the demonstration organizers, **Lev Ponomarev**, Executive Director of the Movement for Human Rights, and **Nikolai Khramov** of the Transnational Radical Party, as well as approximately 11 other persons believed to be members of that party. These people are allegedly currently still being detained in two separate police stations in Moscow. It is further reported that the Moscow city authorities had denied the demonstrators permission to hold the meeting, stating that the day was an official holiday (23 February is reportedly Defence of the Fatherland day, to celebrate Russian armed forces and their contribution to defending the country), but according to information received, there were no other activities or gatherings taking place in the area at that time.

445. On 23 April 2004, 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 concerning the situation of **Lybkan Bazayeva**, a human rights defender and member of the Memorial Human Rights Centre in Chechnya. According to our information, Lybkan Bazayeva has been working for the Memorial Human Rights Centre since January 2000. She has been actively involved in advocating against human rights violations in Chechnya and in the refugee camps in the territory of Ingushetia. It is reported that in May 2000 Lybkan Bazayeva filed a complaint against Russia concerning events in Chechnya to the European Court of Human Rights in Strasbourg, which was reportedly declared admissible by the Court on 16 January 2003. Her application reportedly concerns allegations of indiscriminate bombing by Russian military planes of civilians (including Lybkan Bazayeva and her family) leaving Grozny on 29 October 1999. According to the allegations received, on 19 October 2003, a group of 20-25 armed men wearing camouflaged uniforms broke into the house of Lybkan Bazayeva in Grozny. These men failed to present any documentation regarding their identity or permission to search the house. It is also reported that they intimidated the neighbours, beat members of the family who were reportedly living as tenants in Lybkan Bazayeva's apartment and only left after they were convinced that she was not currently living there. At that time, she was reportedly living elsewhere with acquaintances. Reportedly, the "Memorial" Centre has made repeated inquiries to the Ministry of Internal Affairs of Chechnya with regard to the attack of 19 October 2003. A reply by the Deputy Minister of Internal Affairs of Chechnya to the Memorial Centre on January 2004 reportedly stated that Lybkan Bazayeva was an active supporter of Dudayev and

Maskhadov. According to reports received, following concern for her safety she has been forced to leave the region temporarily. The special rapporteurs express concern that this attack may be connected with Lybkan Bazayeva's human rights activities, in particular with regard to the complaint filed against Russia at the European Court in Strasbourg.

446. On 4 May 2004, the 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 concerning the situation of **Stanislav Markelov**, a human rights lawyer who has worked on behalf of victims of alleged human rights violations in Chechnya. Markelov is currently representing the family of Zelimkhan Murdalov, a Chechnyan student who reportedly disappeared in January 2001 following his arrest by Russian Special Police Detachment (OMON) forces in Grozny, in the court case opened against Sergei Lapin, a member of OMON, in connection with this disappearance. According to the information received, on 16 April 2004 Stanislav Markelov was travelling home on the Moscow metro when he was reportedly attacked by five men, dressed in civilian clothing who reportedly surrounded him and shouted: "You got what you're asking for. No more speeches from you in court". They allegedly hit him on the head with a heavy object causing him to lose consciousness. He reportedly regained consciousness a few hours later and discovered that his lawyer's licence card, his passport and his entry card for the state Duma as well as various documents related to his cases – including those related to the trial of Sergi Lapin -- had been stolen. According to the information received, Stanislav Markelov was taken to City Hospital No. 68 where he was diagnosed as suffering from concussion. On 19 April he reportedly presented a medical certificate of his injuries to the Subway Security Section of Moscow Department of Internal Affairs No. 8 but the police officer on duty reportedly claimed that the certificate was fake and stated that he could only file a lost property complaint. On 21 April he also reportedly filed a complaint about the attack with the Moscow City Department of Internal Affairs. It is reported that a criminal investigation has not yet been opened. Stanislav Markelov also represented the family of a victim who disappeared and was allegedly tortured to death by a member of the Russian special police force, OMON, in Grozny. Markelov also represents a journalist who has allegedly received death threats for publishing an article in relation to the same torture case. A criminal investigation into the attacks against Stanislav Markelov has reportedly not been opened yet. The special rapporteurs express concern that Stanislav Markelov has been targeted for his human rights activities and, in particular, his work to defend victims of human rights violations in Chechnya.

447. On 9 June 2004, 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 concerning recent declarations made by high government officials aiming at discrediting the work of **non-governmental organizations defending human rights**. According to the information received, during a press conference held on 7 May 2004 on the situation of Russian prisons, the Head of the General Direction of Sentence Enforcement of the Ministry of Justice of the Russian Federation (GUIN) reportedly accused human rights organizations of being financed by criminal networks and of disseminating false information in the media. He allegedly declared that there were 163 human rights organizations financed by oligarchs and stated some names, while also acknowledging that there are more than 360 other cooperative human rights organizations with whom it is possible to create a civil society. It is

believed that this declaration came as the response to the recent activities and protests of a number of human rights NGO against the reportedly deplorable conditions of detainees in Russia. It is reported that human rights organizations have allegedly played a significant role in bringing to justice those responsible for torture and ill-treatment of inmates and that last year, as a result of their activities, three prison employees accused of beating inmates were brought to justice. It is further reported that several fact-finding commissions sent by the Ministry of Justice as a result of recent protests and hunger-strikes allegedly concluded that "criminal leaders led this protests and hunger strikes in order to establish their influence zones". According to information received, during his state of the nation address of 26 May 2004, the President of the Russian Federation allegedly denounced human rights groups critical of his record in front of the Federation Council and accused some of serving the interests of dubious organizations. It is believed that these statements partly come in response to the denunciation in the past year by human rights non-governmental organizations of the curtailing of media freedom, especially in relation to limiting the access to State-run television in the March 2004 presidential elections, as well as of reported human rights violations by State authorities in Chechnya. Fear has been expressed that within the current prevailing context, such accusations and reported portraying of NGO members as criminals and representatives of foreign enemies of Russia by senior State officials may result in increasing the vulnerability of human rights defenders within the Federation. Fear has also been expressed that such statements may contribute directly or indirectly to endangering the activities and lives of human rights defenders by legitimating their targeting. The Special Representative calls on the Government of Russia to ensure that all necessary measures were taken to ensure the full protection of the rights guaranteed by the Declaration on Human Rights Defenders.

448. On 21 June 2004, 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 concerning the **Kazan Human Rights Center (KHRC)**, based in Kazan, Tatarstan. According to the information received, on 5 May 2004, members of the Security Direction of the Ministry of Internal Affairs required that a draft of KHRC's forthcoming book, *Tortures in Tatarstan, Proportion, Facts*, be submitted to the Ministry for review. This book was allegedly being published in conjunction with the publishing house Kheter. On 6 May, during a press conference, KHRC announced the release of a new compilation of published articles concerning human rights violations by the Tatarstan Police entitled "The Law and its victims: Tortures in Tatarstan". The previously planned repeat of the press conference was allegedly cancelled by the direction of "Variant T" TV channel, which challenged the objectivity of the correspondent and the editor. On 7 May, members of the Office of the Fight Against Economic Crimes of the Ministry of Internal Affairs (OFEC) accused KHRC of illegal publication of the second book and claimed that KHRC had used the Kheter publishing house logo, despite in-house publication by KHRC. On 14 May, the OFEC reportedly initiated an audit of KHRC accounts. It is furthermore reported that a grenade was found near the door of Mr. Vladimir Chikov, father of Pavel Chikov, the project director and former chair of KHRC. Mr. V. Chikov had allegedly previously been contacted by OFEC for an interview concerning the KHRC audit. On 27 May, following a joint press conference held on 27 May by the KHRC and two other human rights organizations concerning the alleged acts of harassment against them, it is reported that, later that day, the KHRC headquarters were forcibly entered and ransacked. Two masked men wearing gloves reportedly broke into the premises, destroyed equipments and then disappeared. An official investigation was reportedly opened. It is alleged that the acts mentioned above could be linked

to KHRC's publications on human rights and were intended to intimidate their members. The special rapporteurs express concern that the physical integrity of members of KHRC may be at risk.

449. On 20 July 2004, the Special Representative sent a follow-up letter of allegation concerning the **Society of Russian-Chechen Friendship** (SRCF) in Karabulak, Ingushetia, Russian Federation. According to new information received, on 12 July, at approximately 6.30 p.m., over 20 armed members of the military police allegedly raided the office of the Society of Russian-Chechen Friendship in the town of Karabulak, Ingushetia. Three members of staff and another person were reportedly present during the raid, Imran Abdulsalamovich Ezhiev, Zaur Maripov, Khamzat Kuchiev and his wife, Raisa Kuchiev. The officers allegedly seized computer equipment and papers addressed to the Society of Russian-Chechen Friendship, the Moscow Helsinki Group and the chairperson of the Presidential Commission of Human Rights. It is reported that during the search, the officers found a jar with black powder beside the computers, which they alleged to be explosive material. According to the information received, Khamzat Kuchiev, correspondent of the SRCF's Information Centre, sprinkled some of the powder on the floor to show that it was from a printer cartridge and not explosive. As a result, he was allegedly arrested and detained under article 222 of the criminal code, which relates to terrorist activities. Reports indicate that he was released on the night of the 12 July and no charges were brought against him. It is further alleged that the officers ordered Raisa Kuchiev to bring neighbours into the office to bear witness to the officers' findings. The witnesses were then reportedly forced to sign blank sheets of paper. According to reports, Imran Ezhiev, Chairperson of the Chechen and Ingush branch of SRCF and Councillor to the Russian Deputy of the State Duma advised them not to follow the officer's instructions. Consequently, an officer reportedly pushed him out of the office shouting, "You should never have complained about us". Reports indicate that those present were verbally abused during the incident. According to the information received, the military police did not produce a search warrant nor did they present identity cards during the alleged raid. The special rapporteurs express concern that the alleged raid of the Society of Russian-Chechen Friendship and the detention of Khamzat Kuchiev may have been carried out in an attempt to hinder the human rights activities carried out by the organization.

450. On 27 July 2004, the Special Representative sent a letter of allegation concerning the alleged assassination of **Nikolay Girenko**, head of the Minority Rights Commission at St. Petersburg's Scientific Union and chairman of the Ethnical Minority Rights, a leading anti-racist organization in St Petersburg. He had reportedly been given consultative status with the local authorities on minority rights and acted as an expert in legal cases against fascists and fascist organizations. According to the information received, on 20 June 2004 Nikolay Girenko was assassinated at gun point at his apartment in St Petersburg by two unknown assailants. The special rapporteurs express concern that the alleged assassination of Nikolay Girenko may be linked to his human rights activities and in particular his work to defend the rights of ethnic minorities.

451. On 28 July 2004, 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 contemporary forms of racism, racial discrimination, xenophobia and related intolerance, sent an urgent appeal concerning **Dmitri Kraiukhin**, director of United Europe, a non-governmental organization which works to combat racism in Orel, western Russia.

According to the information received, in June 2003 Dmitri Kraiukhin reportedly informed the Prosecutor's Office in the Zavodskii district of Orel about alleged acts of vandalism and distribution of anti-Semitic activities carried out by a neo-Nazi organization called Russian National Unity (RNU). It is reported that, as a result of this complaint, a criminal case was opened which led to two members of RNU being charged with offences under article 282 of the Russian Criminal Code on "incitement of national, racial or religious enmity". The court case was reportedly due to commence in September 2004 with Dmitri Kraiukhin as the chief witness. In February 2004, on conclusion of the criminal investigation, the Zavodskii district prosecutor allegedly gave RNU all the case material, including the contact information for all the case experts and witnesses. It is alleged that RNU activists then began to distribute leaflets in Orel and other cities across central Russia accusing Dmitri Kraiukhin of "heresy" and publicizing his home telephone number and address. Consequently, it is reported that Dmitri Kraiukhin has been the subject of numerous threats, and he requested that the Zavodskii authorities provide him with witness protection. This request was allegedly denied. In early July 2004, Dmitri Kraiukhin reportedly received a death threat through the post which included a photocopy of an article from the Russian daily newspaper *Izvestiya* concerning the murder of human rights defender Nikolai Girenko. Reports indicate that a section of the article regarding Nikolai Girenko's planned participation in a trial against RNU activists was highlighted. Reportedly, the same threat was sent to a local police official and editors of three newspapers in the region which have been critical of extreme nationalist organizations. The special rapporteurs express concern for the safety of Dmitri Kraiukhin, as these death threats and acts of intimidation may be directly linked to his anti-racism activities as a human rights defender and more specifically to his participation in the trial of a neo-Nazi organization.

452. On 7 September 2004, the Special Representative, together with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Fatima Gazieva**, human rights defender and co-founder of the human rights organization Echo of War, and her husband **Ilyas Itaev** in Kalinovskaya, Naor, Chechnya. According to the information received, on 3 September 2004 Fatima Gazieva and Ilyas Itaev were allegedly arrested at their home in Kalinovskaya by Russian-speaking armed men and taken to an unknown location in military trucks. It is reported that no explanation was given for the arrest. Further reports indicate that, in April 2004, federal officers allegedly visited the village of Assinovskaya, where Fatima Gazieva lived previously, to ask about her activities and whereabouts. The special rapporteurs express grave concern for the safety of Fatima Gazieva and her husband Ilyas Itaev, as this arrest and incommunicado detention may have been carried out as a direct result of her work as a human rights defender.

453. On 14 September 2004, the Special Representative sent an urgent appeal concerning the situation of the **Chechen Committee for National Rescue**, a non-governmental organization working for the protection of human rights, based in Nazran, Republic of Ingushetia, Russian Federation. According to the information received, on 2 August 2004 the Prosecutor's Office of the Republic of Ingushetia allegedly filed a complaint against the Chechen Committee for National Rescue in which it claimed that the Committee produced and distributed extremist information. It is reported that particular reference was made to press releases distributed by the Committee between April and June 2004 which allegedly held Russian authorities responsible for human rights violations carried out in Chechnya, and which incited people to rebel against the Russian authorities. Reports indicate that Nazran District Court scheduled a hearing of the

motion on the grounds that such activities allegedly promulgate national discord and were extremist per se. However, it is reported that the Committee was not notified of the hearing and hence the case has been postponed. It is feared that, if the Committee is charged under article 9 of Federal Law No. 114-FZ on “counteractions to extremist activities”, which may result in the closure of the Chechen Committee for National Rescue. The special rapporteurs express their concern that the primary motivation behind these proceedings may be to prevent the Chechen Committee for National Rescue from carrying out its human rights activities.

454. On 18 October 2004, the Special Representative sent an urgent appeal concerning Ludmilla Ausheva, Fatima Malsagova, Tamara Yandieva, Maddan Albogachieva, Khava Dolgieva, Motya Mogushkova, Maremm Yusupova, Birlant Shishkhanova, Radimkhat Yandieva, Madina Khutieva, Fatima Mukhieva, Anna Uzhakhoeva, Maryam Timurzieva, and Zinaida Batalova, all of whom reside in Ingushetia and work for the International Medical Corps (IMC). According to the information received, in the aftermath of the 6 February 2004 bomb attack on the Moscow metro, a leaflet was published by the Ministry of Interior and the Federal Security Service (FSB), where names and photos of the 14 persons mentioned above were displayed, claiming that they were wanted by the police and were planning a terrorist attack similar to that of 6 February. Allegedly, the leaflet was displayed in the Moscow Police Department and Moscow police stations and in several public places in Moscow, such as metro stations and at the Sheremetyevo-1 and 2 airports. It is reported that all necessary measures were later taken by the authorities to get the pictures out of the public domain, and that an internal investigation into the issue is being conducted by the Moscow City Prosecutor's Office. According to the information received, on 9 September 2004, the leaflet reappeared slightly modified, with names and photos of the 14 persons mentioned above, claiming they were wanted by the FSB and the Ministry of Internal Affairs on suspicion of their involvement in terrorist activities on the territory of the Russian Federation. Allegedly, the leaflet was published on the site [www.rambler.ru](http://www.rambler.ru) and in the North-Ossetian newspaper *Slovo Nahis*. The special rapporteurs have expressed concerns that the reported exposure of Ludmilla Ausheva, Fatima Malsagova, Tamara Yandieva, Maddan Albogachieva, Khava Dolgieva, Motya Mogushkova, Maremm Yusupova, Birlant Shishkhanova, Radimkhat Yandieva, Madina Khutieva, Fatima Mukhieva, Anna Uzhakhoeva, Maryam Timurzieva, Zinaida Batalova, all of whom work for IMC, as suspected terrorists may be an attempt to prevent their human rights activities.

455. On 6 December 2004, 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 question of torture, sent an urgent appeal concerning Ruslan Susaev, the head of the organization Civilian's Protest, who also assists the Information Centre of the Russian-Chechen Friendship Society in Chechnya, his wife, Susanna Susaeva, and his children. On 4 November 2004, Ruslan Susaev and Susanna Susaeva were stopped at a police roadblock near Achkoi Martan. The police ordered them out of the car, threw Mr. Susaev to the ground and searched him. They were taken to the police station in Achkoi Martan, and later to the Sunzhenskii Regional Department of Internal Affairs (ROVD). The police tried to make Mr. Susaev confess to a crime, and told him that his family would suffer unless he signed a confession. He refused to sign, and on the morning of 5 November 2004 they were released. Mr. Susaev has reportedly been the subject of recent harassment and threats by the security forces in connection with his work. He collected information about a house raid on 27 August 2004 in the town of Sernovodsk, allegedly carried out by the so-called “Kadyrovtsy”, members of the

Chechen Ministry of Interior security forces. During this raid several people were beaten, one person was killed, and another person was taken away. Mr. Susaev took part in a demonstration calling for the release of this person. On 28 August 2004, several masked men wearing uniforms of the security forces raided Mr. Susaev's home. They asked for Mr. Susaev, searched the house, fired in the air, hit Mr. Susaev's mother in the face, and forced two of the children to lie on the floor. On 29 August 2004, several men again came looking for him at his home, took two of his sons to a police station in Grozny, and released them a few hours later. That evening, a car without licence plates stopped in front of the house, and three men in camouflage uniforms entered and threatened to torture Mr. Susaev unless he stopped his human rights work. Mr. Susaev and his family have since been moving from place to place in Chechnya and Ingushetia. The special rapporteurs expressed their concern that the allegations of ill-treatment, intimidation and harassment of Mr. Ruslan Susaev and his family may be a result of his activities as a human rights defender, and aimed at preventing him from further pursuing his human rights work. We express concern that he and his family may be at risk of torture or other forms of ill-treatment.

#### **Communications received**

456. By letter dated 13 April 2004, the Government replied to the letter of allegation sent on 26 January 2004. The Government confirmed that **Aslan Davletukaev** was taken away on 10 January 2004 and reported that, on 18 January 2004, the Shalin district's procurator's office initiated criminal case No. 36011 on the basis of evidence of abduction of a person under article 126.2 of the Criminal Code. The Government confirmed the finding of his body, and stated that, on 20 January 2004, the Gudermes district procurator's office initiated criminal case no. 35002 on the basis of evidence of homicide under article 105.1 of the Criminal Code. The examination of these cases was continuing at the time, and the procurator's office of the Chechen Republic was monitoring the course of the preliminary investigation procedure.

457. By letter dated 13 April 2004, the Government replied to the urgent appeal sent on 28 January 2004. The Government reported that, on 15 March 2003, the Shali District Procurator's Office in the Chechen Republic initiated proceedings concerning the previous abduction of Mr. **Imran Ezhiev**. In the course of this investigation, it was found that, on 26 January 2004, Mr. Ezhiev left his home in Yandar for the town of Karabulak by car. The Government stated that, on his way, Mr. Ezhiev noticed that two vehicles without state registration plates were following his car. When he stopped at a public phone, the cars continued driving in the direction of Nazran. According to the Government, Mr. Ezhiev did not report this incident to the law-enforcement agencies. The Government informed that his statement provided detailed information on the killing of members of the Society of Russian-Chechnen Friendship (SRCF). These points have yet not been completely checked, and the results will be made known in due course.

458. By letter dated 29 April 2004, the Government replied to the urgent appeal sent on 12 February 2004. The Government stated that **Larisa Vakhaevna Bataeva** and **Alkhazur Bataev** have never been members of the Society for Russian-Chechnen Friendship or any other human rights organization. The reply confirmed that Mrs. Bataeva had met the head of administration of Zakan-Yurt, and denied that she had received any threats in this context. Mrs. Bataeva claims to be unaware of which persons have been stating that she, as well as her husband, have received threats, and why they have made such statements. The Government reported that, on 14 February 2004, Mr. Bataev was arrested, suspected of having committed a number of serious offences in Chechnya. He gave explanations related to the circumstances described in the investigation file,

and he was released the same day. The Government stated that, on 23 February 2004, the Achkoy-Martanov district internal affairs office in Chechnya decided not to institute criminal proceedings against Mr. Bataev, due to lack of evidence that a crime had been committed. According to the reply, Mr. Bataev has stated that his detention was not linked to any persecution by the head of the administration of Zakan-Yurt.

459. By letter dated 13 May 2004, the Government replied to the urgent appeal sent on 24 February 2004. The Government reported that, on 18 February 2004, the deputy prefect of Moscow's Central Administrative District rejected a notification to hold the peaceful meeting referred to in the communication sent by the Special Representative. The decision was based on paragraph 4 of the Provisional Regulations on the procedure for notifying the Moscow city executive authorities of the holding of rallies, street processions, demonstrations and pickets on streets and squares and in other public places of the city, approved by Russian Presidential Decree No. 765 of 24 May 1993. According to the reply, the approximate 30 demonstrators were warned several times that their action had not been authorized by the executive authorities. The Government confirmed that **Lev Ponomarev**, **Nikolai Khramov** and 11 other demonstrators were arrested, and informed that the arrests were based on article 20.2, paragraphs 1 and 2, of the Russian Federation Code of Administrative Offences of 30 December 2001. Later, the Meshchansky and Basmanny district courts heard administrative charges against these people in judicial proceedings. The reply stated that they were subject to administrative penalties consisting of a fine in the amount of 15 times the minimum wage (1,500 roubles) for Mr. Khramov, a fine of 1,000 roubles for Mr. Ponomarev, and fines from 500 to 700 roubles to the remaining participants. According to the Government, these 13 persons were not detained beyond the statutory limit in the internal affairs division.

460. By letter dated 15 July 2004, the Government replied to the urgent appeal sent on 23 April 2004. The Government reported that the incident relating to **Lybkan Bazayeva** is being investigated. In a witness statement, Mrs. Bazayeva stated that, on 19 October 2003, armed men in camouflage uniforms burst into the house belonging to her mother-in-law in Grozny. She stated that they were looking for her and her two sons and that they had beaten tenants living in the house. According to the Government, her statement had been refuted by the testimony of eyewitnesses: These armed men did check the documents of some of the persons living in this house or in its neighbourhood, but, according to the witness, they did not conduct any search or used physical force. The Government stated that there was still need for further investigation. Hence, a procedural decision has not yet been taken.

461. By letter dated 16 September 2004, the Government replied to the urgent appeal sent on 21 June 2004. The Government reported that the Office of the Fight Against Economic Crimes of the Ministry of Internal Affairs (OFEC) investigated the alleged illegal use of the name of the Kheter publishing house. In the course of the investigation, the **Kazan Human Rights Centre (KHRC)** stated that the book entitled *The Law and its Victims Tatarstan* was issued with the assistance of the Yalkin limited liability company. KHRC also stated that the person who used the details of the Kheter publishing house in printing the book could not be identified. According to the Government, on 5 June 2004, OFEC decided not to initiate a criminal case due to lack of evidence pursuant to article 24.1.2 of the Code of Criminal Procedure. The Procurator's Office of the Republic of Tatarstan has recognized this decision as justified. As far as the discovery of the hand grenade on 25 May 2004 is concerned, the Government reported that the Privolzhsky

district internal affairs authority of the city of Kazan on 1 June 2004 initiated a criminal case on the basis of evidence of an offence under article 167.1 of the Criminal Code. This provision relates to unlawful acquisition, transfer, supply, storage, carriage or bearing of firearms, basic parts thereof, munitions, explosive substances or explosive devices. According to the Government, on 1 June 2004, the Vakhitovsky district internal affairs authority of Kazan initiated a criminal case relating to an attack on the office of KHRC and the intentional destruction of office equipment on the basis of evidence of an offence under article 167.1 of the Criminal Code. The Government indicated that the persons who committed these offences have not yet been identified, and that the Office of the Procurator-General of the Russian Federation monitors the investigation. At the time no definitive decision on these criminal cases had been taken.

462. By letter dated 16 September 2004, the Government replied to the letter of allegation sent on 27 July 2004. The Government reported that, relating to the killing of **Nikolay Girenko** on 19 June 2004, the Saint Petersburg procurator's office initiated criminal proceedings on the basis of murder pursuant to article 105, paragraph 1, of the Criminal Code. The head of the Saint Petersburg Central Internal Affairs Department (CIAD) has ordered the creation of a task force composed of the most experienced members of the Criminal Investigation Department of the Saint Petersburg and Leningrad oblast CIAD. According to the Government, several possible versions of the incident have been proposed and are being studied. This includes the suggestion that the crime was linked to Mr. Girenko's activities as an expert in criminal cases involving extremism and racism, and also to his commercial activities. The Government stated that efforts to identify the individuals who committed the crime were continuing.

463. On 20 September 2004, the Government replied to the urgent appeal sent on 28 July 2004 concerning the case against two members of Russian National Unity (RNU). The Government claims that the case is still pending before the Zavodsky district court of the city of Orel, the question not yet having been examined. The next judicial sitting at the time of this communication was for the 31 August 2004. The Government further states that **Dmitri Kraiukhin** gave his personal details in court but did not request that the hearing be held behind closed doors. Moreover, all the witnesses' personal details are annexed to the bill of indictment in line with the law in force (arts. 217, 220 and 222). The Government has no information that it was in fact the District Procurator who had distributed such information to the public. The Government further claims that, despite the fact that leaflets containing information concerning Mr. Kraiukhin were distributed in the city of Orel, Bryansk and some other oblasts, there was nothing in such leaflets requesting Mr. Kraiukhin to refuse to testify or to give false testimony. Mr. Kraiukhin was nevertheless offered protection by special-reaction detachment officers as well as by having his phone conversations monitored. He refused such protection. The investigation section of the Sovetsky district internal affairs office is currently investigating threats received by Mr. Kraiukhin relating to his participation in the trial against RNU.

464. By letter 13 October 2004, the Government replied to the urgent appeal sent on 7 September 2004. The Government stated that **Fatima Gazieva** and **Ilyas Itaev** have not been subject to criminal prosecution nor been detained on suspicion of committing offences. It stated that no complaints or declarations have been received from them by the Procurator's Office of the Chechen Republic. The Government confirmed that Mrs. Gazieva has been involved in the organization Echoes of War, and reported that she ended her involvement in 1999. It was not

known to Mrs. Gazieva that officers of the federal forces had visited the village of Assinovskaya in Sunzha district of the Chechen Republic to obtain information about her activities and whereabouts. According to the reply, on 3 September 2004, representatives of federal structures brought Mrs. Gazieva, Mr. Itaev and a number of other inhabitants of the Chechen Republic to the settlement of Khankala. The purpose was to elucidate any kinship relations with members of alleged illegal armed formations, including the Basaevs, Maskhadovs and Umarovs. The reply indicated that no unlawful actions were committed against these persons under questioning. On 4 September 2004, Mrs. Gazeva and Mr. Itaev were brought by a helicopter of the federal forces to the village of Shchelkovskaya, and they returned to the village of Kalinovskaya. According to the reply, Mrs. Gazeva and Mr. Itaev have no complaints in this regard.

465. By letter dated 18 November 2004, the Government replied to the urgent appeal sent on 14 September 2004 concerning **the Chechen Committee for National Rescue**. Unfortunately, the English translation was not available in time to be examined and included in this report, and will thus be reported next year.

### **Observations**

466. The Special Representative thanks the Government for its numerous responses, which attest to its willingness to cooperate with her mandate. She welcomes the steps taken by the Government with regards to investigating allegations of abuses. She notes, however, that no investigation has so far resulted in the identification, charging and sentencing of perpetrators. As a result, impunity for violations against human right defenders remains high. She refers to her main report to the Commission on Human Rights for a detailed analysis of the trends in the situation of human rights defenders in the Russian Federation, and for her observations to these trends. In view of the numerous reports of violations, she encourages the Government to review favourably her request sent on 20 September 2004 for an invitation to conduct an official visit to the country.

### **Rwanda**

#### **Communications envoyées**

467. Le 15 juillet 2004, 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 un appel urgent sur la Commission parlementaire établie fin 2003, chargée de mener des enquêtes sur l'éventuelle propagation de l'idéologie génocidaire au Rwanda, et qui aurait rendu ses conclusions le 27 juin 2004. Les recommandations de la Commission auraient été adoptées par le Parlement et le rapport devrait être transmis au Sénat prochainement. Selon les informations communiquées, il semblerait que l'interprétation faite par la Commission de la loi contre l'idéologie génocidaire serait de nature à limiter toute opposition, même modérée, au Gouvernement et à restreindre la pleine jouissance du droit à la liberté d'expression et d'opinion au Rwanda, en particulier à l'égard des défenseurs des droits de l'homme. Ainsi, il a été rapporté que, suite aux recommandations de la Commission, le Parlement aurait demandé au Gouvernement de dissoudre la Ligue rwandaise pour la promotion et la défense des droits de l'homme (LIPRODHOR) ainsi que quatre autres organisations de la société civile au motif qu'elles propageraient des idées génocidaires. Par ailleurs, au cours de débats parlementaires, la Commission aurait également demandé au Gouvernement de prendre des mesures à l'encontre de

plusieurs ONG internationales présentes dans le pays, en particulier Care international, Trocaire, 11.11.11 and Norwegian's People's Aid, comme ayant des idéologies génocidaires. Plusieurs Eglises, ainsi que des dirigeants religieux, auraient également été mises à l'index. Des craintes ont été exprimées pour la sécurité personnelle de plusieurs responsables de la LIPRODHOR du fait qu'une dizaine d'entre eux auraient été nommément cités dans le rapport de la Commission. Suite à ces événements, les 2 et 4 juillet, six défenseurs des droits de l'homme, membres actifs de la LIPRODHOR, dont Aloys Habimana, Ruben Niyibizi, Félicien Dufitumukiza, Ndagijimana Balthazar, Fabien Bakizanye et Jean Damascène Ntaganzwa, auraient quitté le Rwanda.

### Observations

468. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication.

### Saudi Arabia

#### Communications sent

469. On 11 February 2004, the Special Representative, together with Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning **Prince Sultan bin Turki**, a member of the ruling family, who has reportedly been calling for peaceful political, economic and judicial reforms in the country since January 2003. He advocated in the world media for transparency, accountability, and an overhaul of the Saudi judicial system. According to information received, Sultan Bin Turki, who had been living abroad, was abducted on 12 June 2003 in Collonges-Bellerive, Switzerland, by five masked men who struck him unconscious and drugged him. He was reportedly transported against his will to Riyadh, where he remained in the hospital for two months due to the effects of the drug he was given, which reportedly resulted in his losing two-thirds of the use of his lungs. It is reported that he was then put under house arrest in his villa of the Al-Morooj neighborhood of Riyadh. By the end of January 2004, he reportedly gave interviews to the BBC English and Arabic services and to Al-Jazeera TV channel, during which he revealed his kidnapping and arrest. On 26 January 2004, following his public statements, he was reportedly arrested and moved to the Al-Hair prison, where he is believed to still be detained. It is not clear whether charges have been brought against him.

470. On 18 March 2004, the Special Representative, 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 Arbitrary Detention, sent an urgent appeal concerning the reported arrest of the following **11 pro-democracy activists: Dr. Matrouk al-Falih**, a professor of political science at King Sa'ud University, Riyadh, **Dr. Abdullah al-Hamid**, a former professor of contemporary literature at Imam Muhammad bin Sa'ud University, Riyadh, **Muhammad Sa'id Tayyab**, a retired journalist from Jeddah, **Dr. Tawfiq al-Qussayyir**, a professor of electronics at King Sa'ud University in Riyadh, **Suleyman al-Rashudi**, a retired lawyer in Riyadh, **Najib Al Khunaizi**, from Qateef, **Khalid Al-Hameed**, from Riyadh, **Amir Abu Khamsin**, from Al Hasa, **Ali Al Dumaini**, **Adnan Al Shikes**, and **Abdulkarim Al Juhaiman**, from Riyadh. According to information received, these persons were arrested on 15 March 2004 by the Mabahith (secret police), for criticizing the Government-appointed National Commission on Human Rights (NCHR), which was established by the

Government over a week ago, and for planning to set up their own "Saudi Independent Human Rights Committee", in a petition delivered to the Government and signed by 53 intellectuals. It is reported that they have criticized NCHR for its lack of independence from the Government and are suspected of issuing "statements which do not serve the unity of the country and the cohesion of society". They are reportedly held incommunicado at the General Intelligence (al-Mabahith al-‘Amma) in ‘Ulaysha, in the capital, Riyadh. It is believed that three detainees were released on 16 March, although their names are not known.

471. On 23 April 2004, 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 a follow-up urgent appeal concerning the case of **Dr Matrouk al-Falih, Dr Abdullah al-Hamid, Muhammad Sa’id Tayyab, Dr Tawfiq al-Qussayyir, Suleyman al-Rashudi, Najib Al Khunaizi, Khalid Al-Hameed, Amir Abu Khamsin, Ali Al Dumaini, and Adnan Al Shikes**. According to more recent information received, nine of the 12 people listed above were released between 17 and 29 March 2004, after they were allegedly forced to sign a pledge to end their participation in any political or human rights activities and to stop calling for reforms in the Kingdom. Dr. Matrouk al-Falih, Dr. Abdullah al-Hamid and Ali Al Dumaini are believed to remain in incommunicado detention because of their refusal to sign this pledge. It is reported that, to date, no charges have been filed against them and that they have been denied access to their lawyers since their arrests.

472. On 31 August 2004, 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 regarding the situation of **Mazen Saleh bin Mohammed al-Hussein al-Tammimi**, human rights defender and founding member of Al-Karama human rights organization in Saudi Arabia. According to the information received, on 31 May 2004 Mazen Saleh bin Mohammed al-Hussein al-Tammimi was reportedly arrested at his family home in Damman, along with his wife and four children, all below the age of 6. His arrest was allegedly connected to his participation in a meeting on the issues of detainees in the Gulf, Guantánamo Bay and Irak which took place on 27 May in Qatar. Although his family were reportedly released the following day, sources indicate that Mazen Saleh bin Mohammed al-Hussein al-Tammimi is still being held in incommunicado detention in the offices of Saudi Arabia’s General Intelligence service (al-Mabahith al-‘Amma) in Damman. It is further alleged that Mazen Saleh bin Mohammed al-Hussein al-Tammimi was allegedly subjected to ill treatment at the time of his arrest. Concern has been expressed that Mazen Saleh bin Mohammed al-Hussein al-Tammimi may have been arrested and detained as a direct result of his human rights activities. It is reported that in 2004 he was appointed Al-Karama representative for the Khobar region for which he was responsible for reporting on all cases of human rights violations, particularly those relating to arbitrary detention. It is alleged that his work was under close scrutiny of the Saudi security forces. Fear has also been expressed for the physical and psychological integrity of Mazen Saleh bin Mohammed al-Hussein al-Tammimi as he is physically handicapped and may be at risk of torture and other forms of ill treatment while in custody.

473. On 17 November 2004, the 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 Chairman-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding **Abdul Rahman Al-**

**Lahem**, a lawyer and member of the Arab Commission on Human Rights. Abdul Rahman Al-Lahem is part of the legal team defending three reform activists, Abdullah Al-Hamed, Ali Al-Demaini and Matruk Al-Faleh, who were arrested in March 2004 and are currently on trial in Riyadh for petitioning and issuing statements demanding political reforms and an end to institutional repression of civil rights due to the war on terrorism. According to the allegations received, Mr. Al-Lahem was arrested by the Saudi intelligence forces on 6 November 2004 following a letter he sent to Crown Prince Abdullah on behalf of the defendants, which accused the trial judges of denying the three men a fair trial through delaying tactics, judicial bias and the denial of the right to a public trial, including the right of international and national media to attend. Concern has been expressed that his arrest may be linked to his work as legal counsel to the imprisoned reform activists. Concern is heightened by the fact that on 17 March 2004, Mr. Al-Lahem had reportedly already been arrested and detained for 8 days in connection with his active defense and support of the three accused.

### **Communications received**

474. By letter dated 12 August 2004, the Government replied to the communication sent by the Special Representative on 26 April 2004 with reference to **Dr. Matrouk al-Falih, Dr. Abdullah al-Hamid, Muhammad Sa'id Tayyab, Dr. Tawfiq al-Qussayyir, Suleyman al-Rashudi, Najib Al Khunaizi, Khalid Al-Hameed, Amir Abu Khamsin, Ali Al Dumaini, and Adnan Al Shikes**. According to the Government, the aforementioned were arrested after they held several meetings. Following an investigation, they were charged with engaging in acts which justified terrorism, encouraged violence and incited civil disturbance. The Government stated that, after they admitted their misguided involvement, apologized and requested that all criminal proceedings against them be dropped, Dr. Tawfiq al-Qussayyir was released on 27 March and Muhammad Sa'id Tayyab and Suleyman al-Rashudi on 28-29 April. Dr. Matrouk al-Falih, Dr. Abdullah al-Hamid and Ali Al Dumaini were charged with organising the meetings and their cases have been referred to the courts for judgement. The Government informed the Special Representative that the accused have enjoyed their full rights at all times. The first hearing began on 9 August and the second is due to begin on 23 August 2004.

### **Observations**

475. The Special Representative thanks the Government for its response, but regrets the absence of replies to numerous other communications sent. She expresses her concern at the reports of arbitrary arrests of human rights defenders in Saudi Arabia.

## **Serbia and Montenegro**

### **Communications sent**

476. On 22 December 2003, the Special Representative sent an urgent appeal regarding alleged threats made against **Goran Stoparic**, a former member of the Serbian security forces' Special Anti-Terrorist Unit, to discourage him from providing testimony in court of human rights abuses reportedly committed by other members of the security forces. According to information received, Goran Stoparic was due to testify on 8 December 2003 at the trial of Sasa Cvjetan for the killing of 19 ethnic Albanian children, women and men by Serbian security forces in Podujevo during the 1999 Kosovo war. It is reported that, a few minutes before testimony was

due to be given, Goran Stoparic initially cancelled his appearance, saying he was unwell, after being threatened by the commanding officer (whose reported name is available to me) of his former unit and told to conceal the truth, and that the commander's brother was allegedly among the perpetrators of the crime. Information further indicates that Goran Stoparic subsequently went on to give his testimony. Concern has been expressed that the alleged threat was aimed at deterring Stoparic from testifying on behalf of human rights and that he, and other potential witnesses in the alleged human rights abuses, may as a result be in need of protection.

477. On 31 March 2004, the Special Representative, together with Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning the situation of the office of the **Helsinki Committee for Human Rights** in Serbia. According to the information received, on 18 March 2004, following the publication by the Helsinki Committee of *Military Secret*, a book which reportedly documents the political activities of the military during the rule of President Milosevic, its author, **Vladan Vljakovic**, was allegedly arrested and placed in custody. According to the allegation, he is under investigation for crimes related to the disclosure of military secrets. On 26 March 2004, a search warrant was issued against the Helsinki Committee offices in Belgrade, their offices raided by military police, and all 251 copies of *Military Secrets* were temporarily confiscated. On 29 March 2004, the chair of the Helsinki Committee, Sonja Biserko, was reportedly summoned to give testimony to a military court. Concern has been expressed that the raid against the Helsinki Committee's offices and confiscation of the book *Military Secrets* and arrest of his author may represent an attempt to obstruct the legitimate efforts of the Helsinki Committee to monitor and help understand how the armed forces of FRY functioned during the Milosevic era.

478. On 12 May 2004, the Special Representative, together with Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation concerning attacks against journalists, who are believed to have been targeted for their reporting on human rights abuses, in particular during the Milosevic era. In particular, reports were received indicating that on 28 March 2004, a bomb was found under a vehicle of the independent television programme **B92 TV**, while the journalists were in Mitrovica to report on the upsurge of violence in Kosovo. On 3 May, Masan Lekic, a B92 reporter, was reportedly attacked as he was conducting an investigation on Milorad "Legija" Lukovic, the main suspect in the assassination of former Prime Minister Zoran Djindjic. It is reported that his attackers first asked him which television company he was working for and, when he answered B92, the media in the country which has been the most active in denouncing human rights violations by the Milosevic regime, they allegedly threw his camera to the ground and seized the tape.

479. On 30 September 2004, the Special Representative, together with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Mrs. Svetlana Djordjevic**. According to information received, in July 2003 Svetlana Djordjevic published a book entitled *Testimonies about Kosovo*, in which she reportedly described human rights violations, such as evictions, mistreatment and killing of Albanian civilians perpetrated by the police in Kosovo in 1998 and 1999, until the end of the NATO intervention. The book allegedly gives the full names of police officers, commanders and citizens who took part in human rights violations in the province. Immediately after the publication of this book, Svetlana Djordjevic began receiving anonymous phone calls at her home and threatening notes stuck on the door of her flat in Vranje. On 27 June 2004, she was the victim of a physical attack. An unidentified man burst into her

apartment, grabbed her mouth and injected her in left upper arm with unidentified liquid. While she was still conscious, he ordered her to go out publicly on television and deny all she wrote. He then left, leaving a red rose in her hand, a sign which suggest that the threats may come from members of the now-disbanded Special Operation Unit, whose misdeeds are pointed out in the book. Svetlana Djordjevic was found an hour after by her husband and transferred to hospital. An investigation was launched, but no information has yet been revealed. Mrs. Djordjevic was then granted special protection by the police. However, the policemen who were supposed to ensure her protection are reported to be the ones that she denounced in her book. Moreover, she and the people with whom she lived have recently been subjected to repeated acts of harassment from the police. As a consequence, she is now reported to live in hiding. In view of the threats and assault of which she has been the victim, concerns are expressed for Mrs. Djordjevic's physical and psychological integrity.

### **Observations**

480. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication.

### **Sri Lanka**

#### **Communications sent**

481. On 3 December 2004, 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 question of torture, sent an urgent appeal regarding **Mr. Uswatta Liyanage Anthony Joseph Perera**, who has been active in combating torture and child abuse, and to provide assistance to the victims in obtaining legal advice and medical attention. According to the allegations received, on 22 November 2004, **Uswatta Liyanage Anthony Joseph Perera** received a phone call telling him to put an end to his human rights work if he wanted to live. He has brought these threats to the attention of the National Human Rights Commission (NHRC) in a letter dated 25 November 2004. Concern is expressed that the threats against Mr. U.L.A. Joseph Perera may be aimed at preventing him from further assisting Mr. Lalith Rajapakse, an alleged torture victim, who was the subject of an urgent appeal by the Special Rapporteur on the question of torture (E/CN.4/2004/56/Add. 1, para. 1509). He has filed a fundamental rights application and is a complainant in a torture case against police officers, which is pending before the Negombo High Court. Mr. Rajapakse as well has complained about threats to his life. These concerns are reinforced by the death of Mr. Gerald Perera, a torture victim, and the subject of an urgent appeal of the Special Rapporteur on the question of torture, dated 22 November 2004 (see also E/CN.4/2003/68/Add.1, para. 1571, and E/CN.4/2004/56/Add.1, para. 1557). He was a successful plaintiff in a fundamental human rights case relating to torture. He was due to testify on 2 December 2004 in the criminal case against the policemen who tortured him, but was shot on 21 November and died of the wounds on 24 November.

#### **Responses received to communications sent by the Special Representative in previous years**

482. By letter dated 23 March 2004, the Government of Sri Lanka replied to the urgent appeal sent jointly with the Special Rapporteur on the question of torture on 25 September 2003. The Government referred to the allegations concerning the arrest and torture of **W.A. Dhanapala Perera**, and reported that the Supreme Court had ordered the perpetrators, three police officers, to pay compensation and costs to W.A. Dhanapala Perera. The Supreme Court ordered the Superintendent of Police (SIU) and the Inspector General of Police (IGP) to take appropriate action against these officers. The Government stated that the Senior Superintendent of Police, Kaluthara, had started an initial inquiry against the police officers against whom there were findings in the "Fundamental Rights" case. The charges had, on 22 July 2003, been brought up against the concerned police officers for torture. Relevant inquiries were in progress at the time. According to the Government, SIU forwarded extracts of the investigation notes to the Attorney-General's Department on 11 January 2004 seeking advice as to whether there is a possibility to consider charges against the concerned police officers under the Convention against Torture Act. The matter was at the time under consideration by the Attorney-General.

### **Observations**

483. The Special Representative would like to thank the Government for its response to last year's communication, and awaits the arrival of a reply to its most recent communication.

## **Sudan**

### **Communications sent**

484. On 6 January 2004, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent a follow-up urgent appeal concerning the situation of **Dr. Mudawi Ibrahim Adam**, Director of the Sudan Social Development Organization (SUDO), a voluntary organization created to promote sustainable development and human rights, which has organized a number of workshops on subjects connected with human rights and is also reportedly engaged in humanitarian activities; it has recently provided non-food items to internally displaced persons in Darfur. According to the information received, Dr. Mudawi Ibrahim Adam was reportedly arrested at his home in Khartoum on 28 December 2003 and is reportedly held in Kober Prison in Khartoum North, where he is believed to be interrogated by the National Security Forces. The reasons for his arrest are allegedly not known and he has reportedly not been charged with any offence. Concern has been expressed that he may have been arrested in connection with his activities in defence of human rights. In the light of a recent visit made by Dr. Mudawi Ibrahim Adam to Darfur and previous reports received according to which people seeking or providing information on the region have been subjected to torture and other forms of ill-treatment by the National Security forces, fears have been expressed for his safety. In this connection, we would like to refer again to the case of journalist **Yusuf al-Bashir Musa**, who was reportedly arrested and severely beaten by the security forces in Darfur in May 2003, after he allegedly wrote an article about the destruction of Sudan air force planes and helicopters in El Fashir airport by the Sudan Liberation Army (SLA).

485. On 8 January 2004, 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 question of torture, sent an urgent appeal concerning **Waiel Taha**, a 23-year-old student and member of the Sudan Organization against Torture (SOAT) student network, who was reportedly arrested by members of the National Security Agency (NSA) outside Khartoum University Student Union Building on Nile Street on 5 January 2004. It is reported that he was subsequently taken to an undisclosed location and that his whereabouts are unknown since then. A delegation from the Khartoum Student Union reportedly went to the NSA office and requested information on his whereabouts. However, the NSA allegedly denied that he had been arrested. According to the information received, another student, **Yousif Fat'h Al Rahman**, was reportedly arrested with Waiel Taha. He reportedly confirmed that they were both taken by force by nine individuals on a Toyota pick-up truck, 2002 model, and that they were subsequently separated. Yousif Fat'h Al Rahman was reportedly taken to the NSA building near Old Khartoum High School, where he was allegedly punched on the face, beaten on the sole of the feet and back, kicked, pressed hard on the stomach, forced to drink three litres of water with a bottle inserted to the throat, strangled and subjected to death threats by five security officers. He was reportedly hurled, blindfolded and handcuffed, into a road near Mahmood Sharief Station in Buri on 6 January 2004. Concern has been expressed that Waiel Taha's arrest may be linked to his participation, together with the Khartoum University Student Union in the organization of a series of briefing and public talks regarding disturbances which allegedly occurred on 3 and 4 January 2004 at Khartoum University between female students and guards. It is alleged that during the disturbances students were beaten by the guards with metal wires and water hoses. Some of the injured students allegedly pressed charges against the university guards. In view of the reported incommunicado detention of Waiel Taha at an undisclosed location and allegations concerning the torture and other forms of ill-treatment of Yousif Fat'h Al Rahman while in custody, fears have been expressed that Waiel Taha may also be at risk of torture and other forms of ill-treatment.

486. On 5 February 2004, the 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 independence of judges and lawyers, sent an urgent appeal concerning **Salih Mahmoud Osman**, a human rights defender and member of the Sudan Organization Against Torture (SOAT) lawyers' network, who was reportedly arrested at his home in Wad-Madani, capital of the Central Region in Sudan, at 11 p.m. on Sunday 1 February 2004. Reports indicate that he is currently being held at the National Security Agency (NSA) offices in Wad Madani, where he is reportedly being interrogated. Although Mr. Salih has not been formally charged with any offence, it is believed that he might have been arrested in connection with his activities in defence of human rights, in particular the fact that he provides free legal aid and legal representation to victims of human rights abuses and to those who face capital punishment or severe punishments (amputation and cross-amputation) in Darfur region, and to the fact that he has written articles and researches on the current conflict in Darfur. Information received also indicates that Mr. Salih was suffering from jaundice at the time of his arrest and has not recovered. It is mentioned that his wife has reportedly not been allowed to see him but she was allowed to bring him food as his ill health needs a special diet.

487. On 23 February 2004, 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, sent a follow-up urgent appeal concerning **Dr. Mudawi Ibrahim Adam**, Director of the Sudan Social Development Organization (SUDO), an organization promoting sustainable development and human rights, through workshops on human rights-related issues and engagement in humanitarian work. According to more recent information received, on 8 February 2004, Mr. Adam was brought before the Attorney-General and charged with crimes against the State under articles 50, 51, 56, 63 and 64 of the Penal Code. It is reported that article 50 relates to undermining the constitutional system or the unity of the country and article 51 relates to waging war against the State, or supporting those who do so. Both are allegedly punishable by death and do not allow release on bail. Mr. Adam is reportedly now held in police custody and has been allowed to see his wife and lawyer only in the presence of police. He is apparently not allowed books or newspapers, but is allowed to watch TV. Dr. Mudawi, who was reportedly arrested at his home in Khartoum on 28 December 2003 after visiting the area of Darfur, was first held under article 31 of the National Security Forces Act in the National Security Centre and in the political section of Kober prison. He went on hunger strike demanding to be released or charged. He ended the hunger strike after two days, when he was brought before the Attorney-General.

488. On 5 April 2004, the 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, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Baroud Sandal Ragab, Ismail Oman, Mohamed Haroun, Mohamed Sharief Ali and Abdalla Aldoma**, all lawyers. It is alleged that they were arrested on 19 March in Khartoum, and are being held incommunicado in a special section of Kober prison. Abdalla Aldoma, a prominent member of the opposition Umma party, presided over a delegation of that party to the National Committee for the Development and Restoration of Social Infrastructure in Darfur. It is alleged that his arrest is linked to the delegation's withdrawal from that Committee. The other four lawyers are members of the Popular Congress, another opposition party. Their arrest is allegedly related to their participation in a number of demonstrations with displaced persons from Darfur, denouncing the lack of shelter and food.

489. On 12 May 2004, 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, sent a follow-up urgent appeal concerning the situation of **Osman Adam Abdel Mawla**, a human rights defender and member of the Nyala branch of the Sudan Social Development Organization (SUDO), which promotes sustainable development and human rights through workshops on human rights-related issues and engagement in humanitarian work. According to the information received, on 5 May 2004, Osman Adam Abdel Mawla was arrested by security forces in Zalingy. He is reportedly being held at the security offices in Zalingy and has allegedly not had any charges brought against him. It should be noted in this respect that the Director of SUDO, **Dr. Mudawi Ibrahim Adam**, who was previously subject to urgent appeals in relation to his reported involvement in humanitarian work in Darfur and his reporting on the human rights situation in the area. In this context, concern has been expressed that Osman Adam Abdel Mawla may have been targeted for his

human rights work and in particular his work with SUDO, which has recently provided assistance to internally displaced people (IDPs) in the Darfur region.

490. On 12 May 2004, the 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 **Nureddin Mohammad Abdel Rahim, omda**, or mayor, of Shoba, and **Bahr al-Din Abdullah Rifah, omda** of Jabalsi. On 9 May 2004 it is alleged that the two men were arrested in the street in Kabkabiya, North Darfur state, after a meeting called by the International Committee of the Red Cross. It is reported that they had provided information on human rights violations by Government-supported militia in the region, including information on burnt villages, killings and mass graves. It is alleged that the men are held incommunicado. In view of their alleged detention incommunicado, concern is expressed that Nureddin Mohammad Abdel Rahim and Bahr al-Din Abdullah Rifah may be at risk of torture or other forms of ill-treatment.

491. On 3 June 2004, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a follow-up urgent appeal concerning the situation of **Osman Adam Abdel Mawla**, a member of SUDO. According to the information received, Osman Abdel Mawla was reportedly arrested on 5 May 2004 and held at the security offices in Zalingy during which time he was reportedly neither interrogated nor informed of the reason for his detention. He was reportedly released on 18 May. The Special Representative welcomes the release of Osman Abdel Mawla but remains concerned at information received that since his release, he has been denied the necessary permit to travel outside Nyala. Concern has been expressed that this alleged restriction on his freedom of movement may represent an attempt at preventing him from carrying out his human rights activities and in particular from reporting on the human rights situation on Darfur.

492. On 18 June 2004, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning the situation of **Adel Abdullah Nasir Aldeain Saeed**, a lawyer with the Sudan Organization Against Torture (SOAT) network in Nyala, which works at providing free legal aid services to persons sentenced to death, amputation, cross-amputation and any other inhumane and degrading punishments. According to the information received, on 16 June 2004, Adel Abdullah Nasir Aldeain Saeed was reportedly arrested by the security forces at his office at 1 p.m. and taken to the security forces offices in Nyala. He has reportedly not been formerly charged and has been denied any visits by his family or lawyers. Concern is expressed that Mr. Adel Abdullah Nasir Aldeain's arrest may be related to his human rights work in particular his monitoring activities and a petition he sent, together with other lawyers, to the director of the security forces in Nyala demanding that the detainees currently being held without legal representation at the security forces detention centre be charged and brought to court in a fair trial or be immediately released if there are no valid charges against them.

493. On 21 July 2004, the Special Representative, together with the Special Rapporteur on the question of torture, sent a follow-up urgent appeal concerning the situation of **Salih Mahmoud Osman**, a Human Rights lawyer with SOAT. It is reported that, on 1 February 2004, Salih Mahmoud Osman was arrested by members of the National Security Agency (NSA) at his home

in Wad-Madani. Reports indicate that he has been held in incommunicado detention since then and that no official charge has been brought against him. According to new reports received, on 30 June 2004 Salih Mahmoud Osman began a hunger strike in protest against his detention. Serious concern is expressed for the health and physical integrity of Salih Mahmoud Osman, who was reportedly suffering from jaundice at the time of his arrest and who also suffers from diabetes and high blood pressure. Concern is also expressed that Salih Mahmoud Osman 's arrest may be related to his work as a human rights lawyer and, in particular, to his provision of free legal representation to detainees facing capital punishment and to victims of human rights abuses in the Darfur province.

494. On 3 August 2004, the 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 independence of judges and lawyers, sent an urgent appeal concerning the situation of **Aba Zer Ahmed Abu Al Bashir**, a lawyer, member of the Berti Tribe and human rights defender in Nyala, Sudan. According to the information received, on 24th July 2004, Aba Zer Ahmed Abu Al Bashir was reportedly arrested by the security forces at his office in Nyala and taken to the security forces' offices in Nyala where he currently remains in detention. He has reportedly not been formerly charged and has been denied any visits by his family or lawyers. Concern is expressed that Zer Ahmed Abu Al Bashir 's arrest may be related to his human rights activities and in particular to a written request which he sent to the state Governor of Southern Darfur on 16 July 2004, together with 10 other peace activists, requesting that the conflict in the area come to an end. Concern is heightened by reports that 10 peace activists and tribal leaders, parties to the request, were also arrested

495. On 2 September 2004, the Special Representative sent an urgent appeal concerning the situation of **Dr. Isam Siddig**, Chairman of the Sudanese Peace Forum. According to the information received, during March 2004, Dr. Isam Siddig was reportedly arrested by Sudanese Security forces at his home in the Khartoum suburb of El Gireif Gharb. He was allegedly brought to the National Security headquarters in North Khartoum where he was held until 10 p.m. , then ordered to report on a daily basis for the next five days. Information indicates that he was detained from 9 a.m. until 10 p.m. every day and was reportedly questioned about his activities with the Sudanese Peace Forum. According to further reports, on 18 August 2004 Dr. Isam Siddig was arrested at his office in Khartoum by three agents of the Sudanese Security forces. He was allegedly ordered to report to the Security Forces headquarters every day, where he is still being held on a daily basis from 9 a.m. until 10 p.m. Whilst in custody, he has not been questioned nor has he been told the reason for his arrest. Concern has been expressed that Dr. Isam Siddig may have been arrested and detained as a direct result of his human rights activities as Chairman of the Sudanese Peace Forum. Concern has been heightened as this is the second time that he has been reportedly arrested for no apparent reason.

496. On 6 September 2004, 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 question of torture, sent a letter of allegation concerning the cases mentioned below. **Faisal El Bagir**, a freelance journalist and correspondent for Reporter Sans Frontières in Sudan and a member of SOAT, has allegedly been detained repeatedly in connection with his work as a journalist and human rights defender. In particular, he was detained on 8 June 2003 at Khartoum airport by the security forces as he was returning from

Athens after attending a conference on the Designs for Democratic Media in Iraq. It is reported that his luggage was searched, his passport confiscated and he was interrogated on his journalistic activities. On 26 July 2003, he was detained again as he was returning from Dhaka where he had attended a meeting on children's rights and on 16 August, he was reportedly summoned by the political section of the security forces and interrogated about his activities and links with SOAT. It is reported that he was summoned again by the press section of the security forces on 11 October following a press release defending freedom of expression, one which was signed by over 250 journalists, and then he was detained again on 10 January 2004. **Gasim Taha**, a journalist working for the daily *Al Sahafa*, and **Muhanad Husain**, working for *Akhbar Al Youm*, were detained by the security forces in Nyala on 15 November 2003, released on the same day and ordered to report weekly to the security office. Their arrest followed a visit on 13 November 2003 to the villages of Singita and Oda in Southern Darfur after an attack of the two villages by Arab militia, during which the journalists filmed and photographed the village and the destruction of houses and farms. It is believed that their arrest was related to their reporting activities on the human rights situation in the Darfur region.

497. On 6 September 2004, the Special Representative sent a letter of allegation concerning **Murtada Al Gahli**, a journalist and SOAT staff member, who was summoned on 11 October 2003 following the release of a press statement calling for the respect of freedom of expression that was signed by over 250 journalists. In December 2003, he was reportedly put under investigation in connection with several articles he had written in the newspaper *Al Ayam* and the newspaper was reportedly order by the National Security Agency to cancel his column.

498. On 6 September 2004, 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 question of torture, sent a letter of allegation concerning the arrest of some **45 students** from the University of Bkhat al Rodah, Al Duwain, on 17 March 2003 after protesting against a decision by the dean to refuse the establishment of a student union. It is reported that the police used rocks, pebbles, electric baton and tear gas resulting in the injuring of many students including Imjad Taha Hussain, Faiza Al taieb Omer, Limia Osman. The students were reportedly taken to the security office and detained for three hours all in the same room without opened windows or fan. Upon their release, they were reportedly order to evacuate their university rooms.

499. On 17 September 2004, 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 question of torture, sent a follow-up letter of allegation concerning **Waiel Taha**, a student and member of the SOAT student network in Sudan. According to the new information received, he was released on bail on 7 January 2004. It is alleged that while in custody he was tied to a chair, blindfolded with a shirt and beaten on his genitals and other parts of his body with a water hose, and that he was threatened with rape. He was reportedly charged by the Chief Persecutor of the Crime Against the State with instigating students, illegal occupation of a room used by a guard and the destruction of a Student Support Fund's banner, under articles 144 (Intimidation) and 182 (Criminal mischief) of the Penal Code of 1991. Although he was released on bail, it is reported that he was ordered to report back to the Crime Against the State Office on 8 and 11 January 2004.

500. On 6 October 2004, the 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. Faisal Dawood Abd Alrahman**, 26, a fourth-year economics student, Secretary-General of the Darfur Student Association at the University of Khartoum. According to the information received, on 23 September 2004 at 11 a.m., eight officers from National Security Agency (NSA) arrested Mr. Faisal Dawood Abd Alrahman and **Mr. Abd Alrahman Mohamed Abd Alrahman**, 27, a second-year Arts Faculty student and Chairperson of the Darfur Student Association at the University of Khartoum, on the University of Khartoum premises. Mr. Faisal Dawood Abd Alrahman and Mr. Abd Alrahman Mohamed Abd Alrahman were taken to the NSA political section offices at Khartoum North. While detained there, they were allegedly beaten and punched all over their bodies for an hour. They were questioned about the activities of the Darfur Student Organization. Abd Alrahman Mohamed Abd Alrahman was released on 24 September 2004 at 4 p.m. Faisal Dawood Abd Alrahman is still in detention and his whereabouts remain undisclosed. The detention of Faisal Dawood Abd Alrahman at an undisclosed location and the treatment he was allegedly subjected to upon his arrest give rise to fears about his being subjected to further ill-treatment.

501. On 12 October 2004, the 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 **Adib Abdel Rahman Yusuf**, of the Sudan Social Development Organization (SUDO) in Zalingy, West Darfur State, who was arrested in Khartoum by National Security and Intelligence Agency officers on 10 September 2004. He is currently held incommunicado at the political section of the National Security and Intelligence Agency offices in Khartoum. In view of his incommunicado detention lasting already for a month, concern is expressed that Mr. Adib Abdel Rahman Yusuf may be at risk of torture or other forms of maltreatment.

#### **Communications received**

502. By letter dated 7 July 2004, the Government replied to the urgent appeal sent on 5 April 2004 concerning **Baroud Sandal Ragab, Ismail Oman, Mohamed Haroun, Mohamed Sharief Ali and Abdalla Aldoma**.

503. By letter dated 14 October 2004, the Government replied to the urgent appeal sent on 2 September 2004. The Government reported that **Dr. Isam Siddig** had never been detained by the security forces, and that he had only been summoned for interrogation several times. According to the Government, during his presence at the security office he was treated humanely and all his legal rights under the constitution were observed.

#### **Responses received to communications sent by the Special Representative in previous years**

504. By letter dated 23 March 2004, the Government replied to the urgent appeal sent on 24 April 2003 concerning the **Sudanese Women's Civil Society Network for Peace (SWCSNP)**. The Government reported that this organization had not registered itself with the Ministry of Humanitarian Affairs and that this procedure was available to them in accordance with the law.

SWCSNP started its activities without prior permission, and hence the office was shut down as the law stipulated. The Government reported that, under the Commission of Humanitarian Assistance Act of 1995, no association, organization or group may undertake any activity until it has been registered with the authorities. In this connection, the Government stated that international human rights law established a right for the public authorities to deny an individual his freedom and security whenever such is necessary to protect national security, public safety or the national economy or to prevent a crime or the disruption of public order. Such restrictions must be in accordance with the law and can only be used in exceptional circumstances. The Government reported that the SWCSNP had not exhausted all internal legal possibilities still available for them, in conformity with the International Covenant on Civic and Political Rights.

### **Observations**

505. The Special Representative thanks the Government for its replies. She acknowledges the explanation received in the case of **Dr. Isam Siddig** indicating that he is not detained by the security forces. She notes, however, that the Government's explanation had not fully dispelled her concerns. Although he is not formally detained, according to her information, Mr. Isam Siddig must report daily from 9 a.m. to 10 p.m. to the Security Forces office. She believes that such practice can be understood to amounting to a form of detention. In the case of **Aba Zer Ahmed Abu Al Bashir**, she notes that information she has received from non-governmental sources indicated that he had actually not been arrested, and that the link between such an alleged arrest and his submission of a written request to the Governor of South Darfur, was not clearly established. In light of this new information, she considers this case to be closed. She refers to her main report (E/CN.4/2005/101) for a detailed analysis of the trends in the situation of human rights defenders in Sudan, and for her observations to these trends.

### **Syrian Arab Republic**

#### **Communications sent**

506. On 16 February 2004, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a follow-up urgent appeal concerning **Aktham Naisse**, the President of the Committees for the Defense of Democratic Liberties and Human Rights in Syria (CDF). According to reports received, in the late afternoon of 11 February 2004, Aktham Naisse, was summoned to report to the "al-Mintaqa" offices of the military secret service in Damascus. He was then allegedly detained and interrogated by two high-ranking military officers until after midnight and reportedly released on 12 February in the early afternoon. It is reported that during his detention, military officers verbally harassed Aktham Naisse, who was scheduled to travel abroad shortly, threatening him not to allow him to leave Syria, or not be allowed to return. They reportedly suggested that other accidents "might happen". The military secret services allegedly accused Mr. Naisse and CDF of having illegal contacts and being "the workers of Europe, the USA and Israel", reportedly on the basis of conversations tapped on Mr. Naisse's telephone by the Syrian authorities. Concern has been expressed that this detention may be linked to Aktham Naisse's work in the defence of human rights, in particular an online petition, "To end the state of emergency in Syria" ,reportedly launched by CDF at the end of January 2004. It is reported that the military secret service officers said that the number of signatories, amounting to more than 3,500, was a sign

that CDF had illegal international contacts. Concerns are heightened by reports of prior surveillance and by the fact that CDF has not yet been recognized by the authorities.

507. On 23 February 2004, 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 concerning the situation of **Haytham Al-Maleh**, Director of the Human Rights Association in Syria who had reportedly been prevented from travelling abroad. According to the information received, on 11 February 2004, Mr. Haytham Al-Maleh was due to travel to United Arab Emirates on a family visit when he was stopped by Syrian security authorities at the International Airport of Damascus and not permitted to leave the country. It is believed that this prohibition to travel follows a speech that Mr. Al-Maleh made in front of the Human Rights Committee of the German Parliament on the International Day of Human Rights, concerning the human rights conditions under the law of emergency in Syria. It seems that Mr. Haytham Al-Maleh had not been allowed to leave Syria for several months until he received an official invitation from the German Parliament, and that at that point, the Syrian Ministry of the Republic Presidential Affairs asserted that Mr. Haytham was not banned from leaving the country. Concern has been expressed that this restriction on the movement of Mr. Haytham Al-Maleh may be linked to his work in defence of human rights.

508. On 9 March 2004, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a follow-up urgent appeal concerning the situation of **Aktham Naisse**, **Daniel Sauod** and **Nadal Darwish** and other members of the Committee for the Defence of Democratic Liberties and Human Rights, who were allegedly arrested following a peaceful demonstration to demand more political freedom and an end to the state of emergency. According to the information received, on 8 March 2004 the Committees for the Defence of Democratic Liberties and Human Rights in Syria organized a sit-in in front of the Syrian Parliament in Damascus to protest against the emergency laws and to call for the release of political prisoners as well as for democratic reforms. It is reported that, in the days preceding the demonstration, members of the Committee for the Defence of Democratic Liberties and Human Rights were summoned by State security for questioning and a number of members did not participate in the sit-in, reportedly due to intimidation. According to the reports received, 20 minutes after the demonstration began the security forces intervened - removing all the banners and arresting a number of demonstrators, including Aktham Naisse, head of the Committee for the Defence of Democratic Liberties and Human Rights, and two members of its council of trustees, Daniel Sauod and Nadal Darwish. Concern has been expressed that members of the Committee for the Defence of Democratic Liberties and Human Rights have been targeted for their human rights work and in particular for having exercised their right to freedom of expression in demanding political reform.

509. On 31 March 2004, the 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 **Hassan Watfi**, (39), a human rights defender and an active member of the Syrian-based Arab Organization for Human Rights (AOHR). According to the information received, Watfi was reportedly arrested by political security officers on 16 March 2004 at his home in the area of Masi'af on the outskirts of Hama, in central Syria. He is allegedly being held incommunicado at the Military Intelligence Centre in

Damascus. Concern has been expressed that he may be at risk of torture and that his arrest may be a way to hinder his work in the defence of human rights in particular his work with the AOHR.

510. On 16 April 2004, the 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 a follow-up urgent appeal concerning **Aktham Naisse**. On 13 April, after having being summoned, Aktham Naisse was allegedly arrested when he presented himself at the department of military security in the city of Latakia. It is alleged that he is held incommunicado, although the authorities there deny that he is in custody. Aktham Naisse is the head of the Committees for the Defence of Democratic Liberties and Human Rights (CDDLHR), which has been conducting a nationwide campaign for political reform and respect for human rights, and advocating for an end to the state of emergency in Syria. Aktham Naisse was allegedly arrested shortly after CDDLHR issued its annual report for 2003, which detailed serious human rights violations in the Syrian Arab Republic. Further reports indicate that he had recently said that the CDDLHR was preparing a petition to be presented to the President, calling for the lifting of the state of emergency and respect for human rights. Concern is expressed that Aktham Naisse may have been arrested in connection to his work as a human rights defender, especially in light of the fact that, as a founding member of CDDLHR, he was allegedly detained from 1991 to 1998 because of his human rights work. In 1992, he was reportedly sentenced to nine years in prison after an unfair trial by the Supreme State Security Court. It is alleged that he was tortured and ill-treated in custody. In view of his alleged detention incommunicado, concern is expressed that he may be at risk of torture or other forms of ill-treatment. Moreover, serious concern is expressed for the life and health of Aktham Naisse if he does not receive appropriate and prompt medical treatment.

511. On 11 June 2004, 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 question of torture, sent a follow-up urgent appeal concerning the situation of **Aktham Naisse**. According to new information received, on 22 April Aktham Naisse was reportedly charged with “carrying out activities contrary to the socialist system of the state and ‘opposing the objectives of the revolution’”. However, it is reported that no official statement regarding the charges has been issued. On 26 April, Aktham Naisse appeared before the Supreme State Security Court (SSSC) in Damascus where he was reportedly interrogated for two days regarding his human rights activities. It is reported that he had been subjected to mistreatment in prison and as a result has suffered a stroke which has left him partly paralysed and unable to speak clearly. He has reportedly been denied medical care. A lawyer was reportedly present at the hearing to assist with the questioning; however, on seeing the health condition of Aktham Naisse, he reportedly refused to do so. The lawyer was then allegedly threatened that “he would be in Mr. Naisse’s place” if he did not cooperate. According to the information received, there has been no report on the outcome of the SSSC hearing and Aktham Naisse continues to be denied legal representation as well as visits from his family. Concern is expressed that Aktham Naisse has been targeted for his human rights work, particularly in light of CDF’s online petition calling for democratic reform and the recent publication of its annual report on human rights in Syria.

512. On 6 August 2004, 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 a follow-up urgent appeal concerning **Aktham Naisse**. According to the information received: Aktham Naisse was tried on 26 July 2004 at the Supreme State Security Council Court and the verdict is pending. He had been charged with “opposing the objectives of the revolution” and “disseminating information aimed at weakening the State”. A very limited number of international observers were allowed in the courtroom, where he was tried on the grounds of the publication of the CDF annual report denouncing human rights violations in Syria and a number of press statements made by CDF members denouncing human rights violations against Kurdish citizens. Mr. Naisse, who needs daily medical treatment and has been kept in solitary confinement since 13 April, has been allegedly denied consultations with a lawyer in private and is not allowed to communicate with his family. Of particular concern is that the Supreme State Security Court is outside the ordinary criminal justice system, accountable only to the Minister of Interior, is not bound by the rules of the Code of Criminal Procedures. Its verdicts are not subject to appeal. Reports suggest that Aktham Naisse's prosecution has been motivated by his human rights activities, particularly the publications and dissemination of information on respect for human rights in Syria, activities which are legally provided for by numerous international human rights instruments. We are thus concerned that his right to freedom of expression, to be a human rights defenders, rights in the context of minimum conditions of detention and fair trial rights may be at risk.

513. On 27 October 2004, 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 concerning the **Syrian Organization for Human Rights**, which published a report February 2004 on alleged use of torture in Syrian prisons and detention centres. The organization called in the report for the establishment of a committee of lawyers and judges to carry out regular inspections of prisons and detention centres. According to information received, on 11 December 2001, the Syrian Organization for Human Rights applied for registration. In a letter dated 10 February 2002, the Ministry of Social Affairs rejected the application. Allegedly, in June 2002, the organization filed a suit in the Administrative Court against the rejection of their application, and the case is still pending in court. We are concerned that the reported refusal by the Ministry of Social Affairs to register the Syrian Organization for Human Rights and the delay in the court proceedings against this decision, which have been pending for more than two years, may be motivated by a wish to obstruct their human rights defence activities.

### **Communications received**

514. By letter dated 20 September 2004, the Government replied to the urgent appeal sent on 11 June 2004. The Government confirmed the arrest of **Aktham Naisse**, and reported that he was arrested on 13 April 2004. It stated that he was sent for trial before the Supreme State Security Court (SSSC), in accordance with the relevant laws, for disseminating false and exaggerated reports likely to harm Syria's relations with neighbouring States, for circulating a petition calling for political reform, and for founding an unauthorized secret organization. The SSSC held two sessions, the first on 26 July 2004 and the second on 16 August 2004, attended by a number of Syrian and Arab lawyers and representatives for the European Union and the United States Embassy. The Government informed that, at the second session, Mr. Naisse was

released on bail pending his trial, which was postponed until 24 October 2004. According to the reply, Mr. Naisse confessed to the charges against him and made an apology.

515. By letter dated 20 September 2004, the Government replied to the urgent appeal sent on 6 August 2004 concerning **Aktham Naisse**. The content of the letter is identical to the reply dated 20 September 2004 to the 11 June 2004 communication (see above).

516. By letter dated 12 January 2005, the Government replied to the letter of allegation sent on 27 October 2004 concerning the **Syrian Organization for Human Rights**. Unfortunately, the English translation was not available in time to be examined and included in this report, and will thus be reported next year.

### **Observations**

517. The Special Representative thanks the Government for its replies. She acknowledges the explanation given in the case of Mr. Naisse. She observes that these explanations did not entirely dispel her concern with regards to the arrest and legal action against Mr. Naisse. In particular, the Special Representative notes that the use of criminal charges such as “disseminating false reports” frequently implies the risk of suppressing legitimate free speech, and is particularly worrying when such charges are raised against a person for having denounced alleged human rights violations. She refers to her main report to the Commission of Human Rights (E/CN.4/2005/101) for a detailed analysis of the trends in the situation of human rights defenders in the Syrian Arab Republic, and for her observations to these trends.

## **Thailand**

### **Communications sent**

518. On 17 March 2004, the 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, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture, sent an urgent appeal concerning the situation of **Somchai Neelahphaijit**, Chairman of the Muslim Lawyers Association and a human rights defender who has reportedly been missing since 11 March 2004. According to the information received, Somchai Neelahphaijit left his home in Bangkok on Thursday 11 March and has reportedly not been seen since. He was allegedly due to attend a meeting at 9 p.m. on Friday 12 March at the Chalina Hotel in Bang Kapi district and was also due to appear in court for a case in Narathiwat province on 15 March. He allegedly did not attend either of these events and his family has reportedly not had any contact from him. On 16 March his wife reportedly filed a complaint with Bang Yikhan police. According to the information received, prior to his alleged disappearance, Somchai Neelahphaijit had reportedly received anonymous threatening phone calls, including one call from a senior member of the authorities informing him that he was on the top of the military blacklist. Fear has been expressed for the safety of Somchai Neelahphaijit and in particular, concern has been expressed that he may have been targeted for his human rights work, including his involvement in petitioning 50,000 signatures nationwide to call for an end to martial law in southern Thailand as well as his work to defend Muslim suspects against terrorist and treason charges.

519. On 14 May 2004, 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 concerning alleged death threats against members of the National Commission on Human Rights, including **Wasant Panich** and **Jaran Dittha-apichai**. According to information received, human rights commissioner Wasant Panich allegedly received a death threat by a letter posted to him on 8 May 2004 in a brown envelope marked by a Garuda, the official logo of Thailand. The content of the letter allegedly blamed him for creating religious divisions among people and reportedly cited a speech he gave while visiting Yala and Pattani with six other commissioners a week earlier. The letter also reportedly warned Wasant Panich to remain "quiet", otherwise his life, and possibly the lives of his family members, would be in danger. These threats are reportedly in relation to comments made by Wasant Panich during his speech regarding the violence that reportedly took place on 28 April 2004 in southern Thailand and during which 108 suspected Islamic militants and five members of the security forces were reportedly killed and which was the subject of a letter of allegations by the Special Rapporteur on extrajudicial, summary or arbitrary executions on 5 May 2004. It is reported that Mr. Wasant's comments stressed that religious diversity was acceptable in a democratic society. He also reportedly said, having documented many accounts from witnesses that police had killed suspected militants who were incapable of fighting back, that "[t]here were many options open to the soldiers allowing them to use more a lenient approach with the assailants". Another human rights commissioner, Jaran Dittha-apichai, also reportedly received death threats after he allegedly told local media on 28 April 2004 that a fact-finding mission was needed in the South. Mr. Jaran allegedly received more than 500 hate e-mails attacking him on the website of a local newspaper after he made the remark. Jaran Dittha-apichai was also threatened in a telephone call on 1 May 2004 that he would end up like the disappeared human rights lawyer Somchai Neelahpaijit. It is believed that other human rights commissioners, including **Chaiwat Sathanant**, may also have received death threats.

520. On 27 May 2004, 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 concerning the situation of members of the Yaung Chi Oo Workers Association (YCOWA), a non-governmental organization that has been promoting the human rights and labour rights of Burmese workers in Mae Sot over the past several years. According to information received, members of the YCOWA have recently been the victim of a number of acts of intimidation and violence. In particular, it is reported that at around 11 p.m. on 11 May 2004, two YCOWA members, **Kyaw Htay** and **Zaw Win**, were reportedly surrounded and stopped near the Mae Sot Hospital by six men on motorcycles allegedly carrying knives and sticks. The six men allegedly beat the two YCOWA members. Concerns have been expressed that YCOWA members may have been targeted in retaliation for their actions in favour of Burmese workers' rights and it is feared that they become the victim of further attacks. It is further reported that in December 2003, two leaders of YCOWA, **Moe Swe** and **Ko Phyo**, had reportedly gone into hiding after local business owners carrying their photos allegedly searched for them in Mae Sot factories and streets.

521. On 25 June 2004, 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 question of torture, sent a follow-up urgent appeal concerning the situation of

**Somchai Neelahphaijit**, Chairman of the Muslim Lawyers Association and human rights defender, who has reportedly been missing since 11 March 2004. The Special Representative welcomes the establishment of an independent Committee and three subcommittees to investigate his alleged disappearance. According to the information received however, despite the arrest of five police suspected of involvement in the abduction as well as the fact that Somchai Neelahphaijit has reportedly been missing for over 100 days, little progress has been made by the Committee in locating his whereabouts. One member of the Committee has reportedly stated that they have not been receiving adequate cooperation from the police regarding the case. Given the lengthy period of time since the disappearance of Somchai Neelahphaijit, serious concern is expressed for his safety and for the apparent lack of progress in bringing to justice those persons responsible for his disappearance.

522. On 28 June 2004, 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 concerning the alleged assassination of **Charoen Wataksorn**, human rights defender and prominent environmentalist in Prachuab Khiri Kan Province, who was the former leader of a successful campaign against the construction of a coal-fired power plant in the district of Bo Nok in 2002. According to the information received, on 21 June 2004 Charoen Wataksorn travelled to Bangkok to present a petition to the House Committee on Corruption investigation regarding the alleged issuing of land title deeds for public land in Prachuab Khiri Kan Province. It is reported that, on his return to Bo Nok that evening, he was shot seven times and killed by two gunmen who had reportedly been waiting for him at the bus station. Concern is expressed that Charoen Wataksorn had been targeted for his human rights activities and in particular his work on behalf of the rights of the residents of Bo Nok.

523. On 7 July 2004 and 15 July 2004, 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 concerning **Supinya Klangnarong**, Secretary-General of the non-governmental organization Campaign for Popular Media Reform, a voluntary organization which monitors and reports on the right to freedom of information and expression in Thailand, and three editors of the *Thai Post*, namely **Thaweessin Sathitrattanacheewin**, **Roj Ngammaen** and **Kannikar Wiriyakul**. According to the information received, on 15 July 2003 CPMR issued a report entitled "The Comprehensive Telecommunications System under Shin Corp's Empire: the undeniable conflict of interests", which alleged that the economic growth of the country's largest telecommunications and media company Shin Corp had been facilitated by its political connections with the Royal Thai Government. The report also alleged that the growth of this private telecommunications company limited public access to telecommunication services as well as public participation in the media and communications system. An article based on a report by CPMR and containing quotes by Supinya Klangnarong was published in a national newspaper the following day. In November 2003, Shin Corp reportedly filed a libel case against Supinya Klangnarong and the three editors. On 23 June 2004, the Criminal Court decided that the case could proceed. It will reportedly begin on 6 September 2004. It is reported that they could face up to two years' imprisonment if found guilty and a 200,000 baht fine. Concern is expressed that Supinya Klangnarong has been targeted for her human rights activities and that the charge of libel may have been brought against her in an attempt to hinder her work to promote the right to freedom of expression and information in Thailand.

### **Communications received**

524. By letter dated 30 March 2004, the Government replied to the urgent appeal sent on 17 March 2004. The Government reported that it shares the concern expressed in the communication sent over the disappearance and safety of **Somchai Neelahphaijit**. The Royal Thai Police reported, utilizing all available means to search for Mr. Neelahpaijit's whereabouts. The response indicated that Thaksin Shinawatra, the Prime Minister, had made it clear to all Thai agencies concerned that all necessary measures must be taken to resolve this case as soon as possible, and bring those responsible for the disappearance to justice without exception and delay. The Government stated that, on 18 March 2004, Thaksin Shinawatra established an independent Committee with three subcommittees to investigate his alleged disappearance, under the Chairmanship of the Director-General of the Department of Special Investigation, Ministry of Justice. The Government reported that further developments regarding Mr. Neelahpaijit would be provided upon availability.

525. By letter dated 17 May 2004, the Government replied to the urgent appeal sent on 14 May 2004. The Government reported that **Wasant Panich** or **Jaran Dittha-Apichai**, or any other human rights commissioners, including **Chaiwat Satha-anant**, can make a request for protection of their lives to the authorities concerned, should they feel that such special protection is needed. Appropriate action would then be promptly taken. It stated that the freedom of expression and opinion is a fundamental right guaranteed by the Constitution. The Government expressed its commitment to the promotion of the role of human rights defenders as laid down in the Declaration on Human Rights Defenders.

526. By letter dated 20 July 2004, the Government replied to the urgent appeal sent on 7 July 2004. The Government stated that the decision to file a libel case against **Supinya Klangnarong** was taken by Shin Corp itself and added that allegations of any connection between Shin Corp and the Government was unfounded, since the Government has no control of any decision of the company and is not represented in its board. The reply stated that the national legislation guarantees that anyone who is offended shall be able to launch a lawsuit in the relevant court. The Government stated that it considered the case as a civil case, not a human rights violation. The Government reported that the final decision would be made by the relevant courts, on the basis of evidence presented by both parties, with which the Royal Thai Government cannot interfere. It further indicated that if Mrs. Klangnarong was not satisfied with the decision of the court, she could appeal the decision or resort to existing national human rights protection mechanisms. The Government stated that freedom of expression is guaranteed by national legislation as laid down by international human rights law. In its reply, the Government finally stated that it may serve the interests of all parties if the special procedures of the Commission on Human Rights in each case would consider whether there is a human rights violation and whether domestic remedies had been exhausted.

527. By letter dated 20 July 2004, the Government replied to the urgent appeal sent on 15 July 2004 concerning **Supinya Klangnarong**, **Thaweesin Sathitrattanacheewin**, **Roj Ngammaen** and **Kannikar Wiriyakul**. The reply is in its substance identical to the reply provided to the communication sent 7 July 2004 on Mrs. Klangnarong. The Government called upon the

Secretariat to ensure that a careful screening of communications be made in the future so as to avoid repetition of work.

528. By letter dated 6 August 2004, the Government replied to the urgent appeal sent on 25 June 2004 concerning **Somchai Neelahphaijit**. The Government previously replied in a letter dated 30 March 2004 to the communication sent by the Special Representative concerning Mr. Neelahphaijit on 17 March 2004. The Government reiterated that it attaches utmost importance to the disappearance of Mr. Neelahphaijit. It reported that, on 12 July 2004, the Criminal Court heard the case filed by the State Prosecutor over his disappearance, and that his wife has been allowed to act as a co-plaintiff. The lawsuit was filed against five police officers who were charged with robbery and coercion through threats of death or bodily harm against Mr. Neelahphaijit. According to the reply, these charges may change if more evidences can be gathered or the whereabouts of Mr. Neelahphaijit can be determined. The Government indicated that the Court had set the first hearing of witnesses on 9 August 2004 and would continue consideration under the continuous hearing system of more than 100 witnesses until 21 December 2005. It stated that, despite the relentless efforts by the Government agencies concerned and the independent Committee to locate the whereabouts of Mr. Neelahphaijit, his fate still remained unknown.

#### **Observations**

529. The Special Representative thanks the Government for its numerous replies. She welcomes the measures taken in the case of **Somchai Neelahphaijit** but remains gravely concerned about progress to locate his whereabouts and to bring to justice those people responsible for his disappearance. She reaffirms her serious concern at the reports of death threats and assaults of defenders.

### **The Former Yugoslav Republic of Macedonia**

#### **Communications sent**

530. On 4 February 2004, 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 in connection with information received regarding **Zoran Bozinovski**, a journalist known for his efforts to write on corruption and human rights abuses, who allegedly received threats against his life and the lives of his two young daughters on 4 and 5 December 2003. According to information received, the threats are a response to reports by Mr. Bozinovski on corruption among officials in the Government and the judiciary, and are reported to originate from a Macedonian businessman allegedly linked to criminal gangs. Mr. Bozinovski reportedly filed a confidential complaint with the police on 4 December, including audio recordings of explicit death threats against himself and his daughters. Following his initial report to the police, the same person allegedly threatened him again on 5 December for having reported the earlier threats to the police. On 18 December the police allegedly informed Mr. Bozinovski that the person who had threatened him had been cautioned but no criminal charges had been pressed against him. Mr. Bozinovski is reportedly very concerned that he and his family remain at risk. Reports indicate that Mr. Bozinovski was attacked on 24 September 2002 by three men armed

with iron bars, who broke into the offices of the Tumba radio station in Kumanovo, after which he was taken to the hospital with severe head and hand injuries. At the time of the attack, Mr. Bozinovski was reportedly investigating corruption involving the head of the Macedonian customs service. Reports indicate that the assailant sentenced for the 2002 attack was never imprisoned, although the judgment was final.

531. On 4 May 2004, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a follow-up urgent appeal concerning **Zoran Bozinovski**. According to new information received, Mr. Bozinovski reportedly published an article in the newspapers *Kumanovo Boulevard* and *Start* allegedly denouncing impunity for criminals. On 7 April, Mr. Bozinovski reportedly received a phone call from one of the person quoted in his article, who threatened to kill him. It is reported that Mr. Bozinovski immediately went to the police to report the incident and that upon his arrival he was reportedly arrested on the basis of a detention warrant for having failed to appear in a court hearing in a defamation suit against him on 6 April 2004 and reportedly in order to ensure his presence at the next hearing on 19 April 2004. According to reports, Mr. Bozinovski was detained at the investigative prison ("Shutka") in Skopje, until 13 April when he was released. Concern has been expressed that, under the newly amended article 172 of the Criminal Code on defamation, Mr. Bozinovski, who faces a number of defamation suits for articles he has published, in particular on corruption of officials, might face a prison term of up to three years if found guilty.

### **Observations**

532. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication. She expresses grave concern at the absence of enforcement of the sentence passed against Bozinovski's assailant and the resulting impunity. She calls on the Government to take all necessary measures so that sentences against perpetrators of human rights abuses are indeed enforced. She recalls that the law of defamation requires legislators to strike a delicate balance between the protection of freedom of speech – particularly where this freedom is exercised in the defence of human rights – and the interests of the persons who are the subject derogatory speech. The Special Representative invites the Government to consider whether the possibility to resort to a measure as harsh as pre-trial detention for persons accused of defamation, as in the case of Mr. Bozinovski, correctly strikes that balance.

## **Tunisia**

### **Communications envoyées**

533. Le 31 décembre 2003, la Représentante spéciale a envoyé un appel urgent concernant **Neziha Rejiba**, journaliste, plus connue sous son nom de plume de Om Zied et membre du Conseil national pour les libertés en Tunisie (CNLT), une organisation qui travaille sur la défense des droits humains, l'égalité entre les sexes et la promotion des valeurs démocratiques, et au sujet de laquelle la Représentante spéciale du Secrétaire général pour la question des défenseurs des droits de l'homme, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression avaient envoyé un appel le 10 octobre 2003. Selon les

informations reçues le 18 novembre, elle aurait été accusée de « détention illégale de devises étrangères et son transfert à une partie non habilitée » pour avoir donné 170 € à un jeune Tunisien alors qu'elle rentrait d'un séjour à l'étranger. Il semblerait que cette accusation pourrait être abusive, dans la mesure où, selon la loi tunisienne en matière de contrôle des changes, Mme Rejiba aurait eu une semaine à son retour de voyage pour changer ses devises. Selon les informations reçues, le 19 novembre, à l'issue du procès, elle aurait été condamnée à huit mois de prison avec sursis et 1 200 dinars d'amende. Le procès en appel devait se tenir le 31 décembre 2003. Des craintes ont été exprimées que cette condamnation ne soit liée au travail de Neziha Rejiba en faveur des droits humains, en particulier ses reportages sur des questions touchant à l'éducation et à la corruption supposée du Gouvernement.

534. Le 12 janvier 2004, la Représentante spéciale a envoyé un appel urgent concernant la situation de **Sihem Ben Sedrine**, membre du Conseil national des libertés en Tunisie (CNLT), dont elle a été la porte-parole de 2001 à 2003, ainsi qu'écrivain, journaliste et défenseuse des droits humains. Selon les informations reçues, le 5 janvier 2003 à 15 heures, Sihem Ben Sedrine aurait été agressée en pleine rue alors qu'elle sortait de son domicile, rue Abou-Dhabi à Tunis, lequel est également le siège du CNLT, pour se rendre dans un « publinet » (cybercafé). Elle aurait été mise à terre par un inconnu qui l'aurait frappée à coups de poing à plusieurs reprises, en présence de deux acolytes. Sihem Ben Sedrine aurait fait constater ses blessures auprès d'un médecin le lendemain et demandé à son avocat de porter plainte. Des craintes ont été exprimées que cette agression ne soit liée à son travail en faveur des droits de l'homme. Selon les informations reçues, l'immeuble du CNLT serait l'objet d'une surveillance accrue depuis début janvier. Plus de cinq policiers en civil surveilleraient tous les jours l'entrée de l'immeuble. De ce fait, des craintes ont été exprimées que cette attaque n'ait été perpétrée par les services de sécurité tunisiens.

535. Le 5 mars 2004, 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 un appel urgent concernant **Abdellatif Makki et Jalel Ayyed** qui se verraient refuser leur réintégration à l'Université de Tunis en raison des peines de prison qu'ils auraient effectuées du fait, semble-t-il, de leurs activités passées au sein de l'Union générale tunisienne des étudiants (UGTE). Selon les informations reçues, Abdellatif Makki, 41 ans, ancien Secrétaire général de l'UGTE et interne aux hôpitaux de Tunis, aurait été arrêté en 1991 et condamné à une peine de 10 ans de prison par le tribunal militaire de Tunis en raison de ses activités syndicales au sein de l'UGTE. Libéré le 10 juillet 2001 après avoir purgé l'intégralité de sa peine, Abdellatif Makki aurait demandé, le 26 septembre 2001, sa réinscription en première année d'internat. Selon les informations reçues, sa demande aurait été rejetée par le secrétariat général de la faculté de médecine de Tunis. Abdellatif Makki aurait alors pris contact avec les Ministères de l'enseignement supérieur et de la santé publique, ainsi qu'avec le Haut-Comité des droits de l'homme, semble-t-il sans aucun résultat. Le 19 mars 2002, la Direction des affaires juridiques et du contentieux du Ministère de l'enseignement supérieur aurait notifié à Abdellatif Makki sa décision de refuser son inscription au motif que son affaire toucherait à la sécurité et à la stabilité de l'institution universitaire concernée. S'agissant de Jalel Ayyed, 39 ans, celui-ci aurait été arrêté en 1991 et condamné à huit ans d'emprisonnement pour ses activités syndicales au sein de l'UGTE. Au moment de son arrestation, Jalel Ayyed venait de terminer cinq années de formation théorique et une année de pratique en médecine. Depuis sa libération, Jalel Ayyed se serait vu lui aussi refuser le droit de poursuivre ses études. Abdellatif Makki et Jalel Ayyed auraient contesté les décisions prises à

leur rencontre auprès du tribunal administratif de Tunis. Cependant, en raison des délais parfois longs de traitement de pareilles requêtes, tous deux pourraient voir leurs chances de reprendre leurs études définitivement compromises. Le 7 février 2004, ils auraient entamé une grève de la faim qu'ils poursuivraient à ce jour.

536. Le 11 mars 2004, la Représentante spéciale a envoyé un appel urgent concernant les cas suivants de membres de l'Union générale des étudiants de Tunisie (UGET).

537. D'après les informations reçues, le 28 juin 2003, **Zied Kacem**, étudiant à la faculté des lettres de l'Université de Sousse et membre du bureau fédéral de l'UGET de Sousse, aurait été renvoyé par décision du conseil de discipline pour « propos diffamatoires et appel à la grève ». Il semblerait qu'après avoir été débouté dans ses démarches pour être réintégré dans les facultés des lettres de Tunis, de Sfax et de la Mannouba, M. Kacem ait entamé une grève de la faim le 26 février 2004. Le 28 février 2004, les responsables locaux de l'UGET auraient adressé une pétition au Ministre de l'enseignement supérieur lors de sa visite à la faculté de droit de Sousse lui demandant la réintégration de Zied Kacem et revendiquant la liberté d'expression et le droit syndical pour les étudiants. La police aurait reçu l'ordre d'intervenir pour disperser les étudiants rassemblés. Elle les aurait poursuivis dans les toilettes de la faculté et dans les amphithéâtres. Plusieurs étudiants, y compris des militants de l'UGET, auraient été blessés, notamment Ayech Amami, Hatem Mabrouki (qui aurait souffert d'une double fracture au bras gauche), Atef Ben Salem et Chaker Sayari. A la suite de ces événements, les étudiants Kamel Amorossia, Atef Ben Salem et Nizar Othmani se seraient vu interdire l'accès à l'Université le 3 mars 2004. Ils auraient été chassés des locaux sur ordre du Secrétaire général de l'Université après avoir demandé les raisons de cette décision. Le même jour, **Anis Ben Fraj**, qui selon les informations reçues avait été réinscrit à l'Université de Sousse à la suite d'une grève de la faim entamée pour protester contre sa révocation de la faculté des lettres de l'Université de Sfax, qu'il jugeait illégale (référence est faite à cet égard à 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 la Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme le 5 mars 2004), aurait été empêchée d'accéder à l'enceinte de l'université par la police. Il aurait été agressé et sa carte d'étudiant aurait été confisquée selon les forces de l'ordre suite à une décision du recteur de l'Université du Centre annulant son inscription. Selon les informations reçues, les policiers auraient refusé de lui donner une copie de cette décision. Anis Ben Fraj ferait depuis l'objet d'une filature policière constante. Par ailleurs, d'autres militants de l'UGET, **Wissam Essaïdi** et **Samir Enefzi**, de la faculté de droit de Tunis, et Badr Essalem, de la faculté de journalisme, risqueraient également d'être renvoyés de l'Université pour leur engagement syndical, à la suite de leur prochaine comparution devant des conseils de discipline.

538. Le 1<sup>er</sup> avril 2004, 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 un appel urgent concernant la persistance de la situation de **Abdellatif Makki**, 41 ans, et **Jalel Ayyed**, 39 ans. Selon les nouvelles informations reçues, après avoir vu leur demande de poursuivre leur internat en médecine rejetée par la faculté de médecine, Abdellatif Makki et Jalel Ayyed auraient été autorisés à s'inscrire en DEA de biochimie au sein de la faculté des sciences. Toutefois, il a été porté à la connaissance des Rapporteurs spéciaux qu'ils se seraient vu refuser l'accès aux laboratoires d'accueil qui se trouveraient dans la faculté de médecine, ce qui les empêcherait de valider leur formation et d'obtenir leur diplôme de troisième cycle au sein de la faculté des

sciences. Selon les informations reçues, Abdellatif Makki et Jalel Ayyed poursuivraient une grève de la faim depuis 54 jours pour réclamer le droit à poursuivre leurs études. Les rapports indiquent que Abdellatif Makki aurait déjà perdu plus de 20 kilos et qu'il aurait été transporté d'urgence à l'hôpital Rabta à Tunis le 27 mars 2004. Malgré son état de santé inquiétant, il aurait refusé de suspendre sa grève de la faim. L'état de santé de Jalel Ayyed serait également très inquiétant.

539. Le 27 avril 2004, 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'allégation concernant M<sup>e</sup> **Patrick Baudouin**, président d'honneur de la Fédération internationale des ligues des droits de l'homme (FIDH). Selon les informations reçues, le 13 avril 2004, M<sup>e</sup> Baudouin se serait vu interdire l'accès au territoire tunisien à l'aéroport Tunis-Carthage par la police politique, sans qu'aucun motif ne lui ait été signifié. M<sup>e</sup> Baudouin se rendait en Tunisie pour participer à une conférence de presse le 14 avril 2004, afin de présenter le Rapport annuel 2003 de l'Observatoire pour la protection des défenseurs des droits de l'homme organisée en partenariat avec la Ligue tunisienne des droits de l'homme. Ce rapport, intitulé « Les défenseurs des droits de l'Homme à l'épreuve du tout-sécuritaire » et préfacé par le prix Nobel de la paix 2003, dresse un état des violations commises à l'encontre des défenseurs des droits de l'homme dans plus de 80 pays, dont la Tunisie. Des craintes ont été exprimées que le refoulement de M<sup>e</sup> Baudouin par les autorités tunisiennes ne vise à faire obstacle à ses activités en faveur de la défense des droits de l'homme ainsi qu'à la publicisation du Rapport annuel de l'Observatoire pour la protection des défenseurs des droits de l'homme. Selon les informations reçues, ce serait la troisième fois que M<sup>e</sup> Patrick Baudouin se verrait interdire l'accès au territoire tunisien dans le cadre de ses fonctions au sein de la FIDH.

540. Le 7 mai 2004, la Représentante spéciale a envoyé un appel urgent concernant la situation de la Ligue tunisienne des droits de l'homme (LTDH), dont les activités de défense des droits de l'homme seraient menacées en raison du blocage par les autorités tunisiennes des fonds alloués par l'Union européenne, une situation ayant fait l'objet d'un appel urgent daté du 5 novembre 2003. Selon les informations reçues, la LTDH se verrait toujours dans l'impossibilité d'accéder à la seconde tranche des fonds attribués par l'Union européenne pour ses activités et programmes en faveur de la défense des droits de l'homme. Le Comité directeur de la Ligue se verrait à ce jour dans l'incapacité de régler le loyer annuel du siège central dû au plus tard le 31 mai 2004. Selon les termes du contrat de location, à défaut de versement à cette échéance, la LTDH se verrait dans l'obligation de quitter ses locaux et de les restituer à leur propriétaire. Le gel des fonds menacerait également l'existence de dix sections régionales de la LTDH à Sfax, Jendouba, Sousse, Mahdia, Gafsa, Gabès, Kairouan, Monastir, Kébili et Bizerte. Des craintes ont été exprimées que ce gel des fonds ne vise à priver la LTDH des moyens financiers lui permettant de mener ces activités en faveur des droits de l'homme.

541. Le 11 juin 2004, la 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'allégation concernant, le 8 juin 2004, trois membres de l'Association de lutte contre la torture en Tunisie (ALTT), **Radhia Nasraoui** (présidente), **Ali Ben Salem** (vice-président) et **Ridha Barakati** (trésorier), qui auraient été agressés verbalement et auraient reçu des coups de la part de policiers appartenant à la Brigade de sûreté de l'Etat alors qu'ils essayaient d'entrer dans les locaux du siège du gouvernorat de Tunis pour y déposer,

conformément à la loi tunisienne, les documents requis pour l'enregistrement de leur association. Les membres de l'ALTT qui se verraient constamment refuser l'accès aux locaux du gouvernorat de Tunis auraient alors décidé de faire un sit-in devant le siège du gouvernorat. Radhia Nasraoui aurait alors été emmenée par plusieurs policiers jusqu'à une rue isolée où elle aurait été séquestrée pendant environ une heure et demie. Ali Ben Salem aurait, quant à lui, été conduit dans une rame de métro, et Ridha Barakati aurait été placé dans un taxi, dont le chauffeur aurait reçu l'instruction de l'éloigner le plus possible du gouvernorat. L'ALTT, dont la création aurait été annoncée le 26 juin 2003, Journée internationale des Nations Unies pour le soutien aux victimes de la torture, a pour mandat de promouvoir les législations locales de protection contre la torture, recenser et faire le suivi des cas de torture, et fournir une assistance aux victimes sur le plan médical ainsi que sur le plan judiciaire, en vue du dépôt de plaintes auprès des instances nationales et internationales. Dès le jour de sa création, les membres fondateurs de l'ALTT se seraient rendus au siège du gouvernorat de Tunis afin de déposer les documents requis mais auraient été refoulés. D'après les informations reçues, Ali Ben Salem, âgé de 74 ans, et dont la santé serait déjà fragile, aurait été très affecté par les violences qu'il aurait subies et serait actuellement dans un grand état de faiblesse. Quant à Radhia Nasraoui, celle-ci aurait des bleus sur ses bras et sur l'une de ses jambes; elle serait provisoirement dans l'impossibilité de reprendre normalement ses activités d'avocate.

542. Le 13 juillet 2004, la Représentante spéciale a envoyé un appel urgent concernant la situation de plusieurs organisations de défense des droits de l'homme en particulier l'Association internationale pour le soutien des prisonniers politiques (AISSP), le Rassemblement pour une alternative internationale de développement (Raid-Attac Tunisie) et l'Association de lutte contre la torture en Tunisie (ALTT). Selon les informations reçues, après s'être vu interdire la tenue de son assemblée générale en janvier dernier, le 22 juin 2004, l'AISSP aurait été notifiée d'un refus de reconnaissance légale de l'association par les autorités. Aucun motif n'aurait été donné à ce refus contrairement à l'article 5 de la loi 154 de 1959 relative aux associations qui prévoit que la décision de refus de constitution doit être motivée. D'autre part, le Raid-Attac Tunisie se serait vu interdire la tenue de son deuxième congrès, prévu pour les 26 et 27 juin 2004, par le Ministère de l'intérieur. Selon les informations reçues, cette interdiction surviendrait après que les autorités tunisiennes auraient tenté d'empêcher la tenue du premier congrès du Raid-Attac en juillet 2001. Le congrès avait finalement pu se tenir après l'arrivée d'invités étrangers, notamment de parlementaires européens. Le Raid-Attac n'aurait pas non plus obtenu de reconnaissance légale. Enfin, selon les informations reçues, les membres de l'Association de lutte contre la torture en Tunisie (ALTT) auraient été empêchés en juin 2003 de déposer les documents relatifs à la création de cette association et le Conseil national pour les libertés en Tunisie (CNLT) n'aurait toujours pas obtenu son enregistrement légal malgré plusieurs demandes.

543. Le 21 juillet 2004, la Représentante spéciale a envoyé un appel urgent concernant l'Association de lutte contre la torture en Tunisie (ALTT), et en particulier son Secrétaire général **Chokri Latif**. Selon les informations reçues le samedi 10 juillet 2004 et pour la seconde fois en une semaine, M. Chokri Latif, aurait été convoqué par les services de la police tunisienne et interrogé sur sa responsabilité personnelle dans des publications considérées « illégales » et sur son « appartenance à une association non reconnue ». A la fin de cet interrogatoire, une mise en garde officielle lui aurait été délivrée, lui signifiant qu'il pourra être poursuivi pour ces faits considérés comme délictueux par les autorités tunisiennes.

544. Le 22 novembre 2004, 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'allégation concernant **Radhia Nasraoui**, avocate tunisienne, présidente de l'Association de lutte contre la torture en Tunisie et ex-membre de la Commission internationale d'enquête des Nations Unies sur la Côte d'Ivoire. Selon les informations reçues, le 17 novembre 2004, des dizaines d'agents de police auraient encerclé le quartier del Manar où Mme Nasraoui habite et aurait de ce fait interdit l'accès des militants devant se rendre chez elle à l'occasion de la grève de la faim organisée par le Comité de soutien à Jalel Zoghلامي, Nejib Zoghلامي et Loumamba Moshi. Elle aurait elle-même été bloquée à l'entrée de la ville pendant une demi-heure par les agents qui auraient tenté d'ouvrir les portes de son véhicule pour obliger un de ses amis à en descendre. Des craintes ont été exprimées que ces actions ne visent à faire obstacle au travail de défenseur des droits de l'homme que conduit M<sup>c</sup> Nasraoui. Ces craintes sont d'autant plus vives que depuis son retour de Côte d'Ivoire, Radhia Nasraoui aurait été victime de multiples actions à son encontre. Son domicile et son cabinet seraient surveillés, de même que celui de sa mère. Son mari aurait également été suivi et des agents de la police politique auraient posé des questions à ses médecins concernant son état de santé. Par ailleurs, le 25 octobre 2004, au lendemain des élections présidentielles, alors qu'elle accordait une interview à une radio étrangère, un individu non identifié lui aurait arraché son portable. Le chef du poste de police du boulevard Bab-Benet aurait refusé d'enregistrer la plainte.

#### **Communications reçues**

545. Par lettre en date du 30 janvier 2004, le Gouvernement a répondu aux appels urgents envoyés le 31 décembre 2003 et le 10 octobre 2003 concernant Mme **Neziha Rejiba**. Le Gouvernement a assuré que l'affaire dont Mme Rejiba a fait l'objet aurait été en pleine conformité avec le droit commun. Suivant les recommandations de l'administration douanière, le tribunal de première instance de Tunis a condamné Mme Rejiba à huit mois de prison avec sursis et à une amende égale au seuil minimal. L'intéressée a interjeté appel et la cour d'appel doit rendre son jugement le 25 février 2005.

546. Par lettre en date du 30 décembre 2004, le Gouvernement a répondu à la communication du 12 mars 2004 concernant des universitaires tunisiens. Le Gouvernement a indiqué que les étudiants en question auraient fait l'objet de décisions disciplinaires émanant de leurs institutions respectives suite aux infractions aux règlements intérieurs de ces institutions. Le Gouvernement a affirmé que ces décisions n'auraient aucun rapport avec les activités syndicales garanties par la Constitution tunisienne. Concernant Zied Kacem, le Gouvernement a signalé qu'il aurait continué à enfreindre le règlement intérieur de la faculté de Sousse en organisant des assemblées générales non autorisées et incitant les étudiants à entrer en grève, en perturbant le cours normal des études. En conséquence, le conseil disciplinaire aurait décidé de son renvoi. Le Gouvernement a également souligné que des étudiants, dont Ayech Hammami, Hatem Mabrouki, Atef Ben Salem et Chaker Sayari, s'étaient réunis le 28 février 2004, lors de la visite du Ministre de l'enseignement supérieur, de la recherche scientifique et de la technologie. Après que l'accès à la salle de réunion leur aurait été interdit, des étudiants auraient jeté des pierres contre les forces de l'ordre qui seraient intervenues pour disperser la foule. Concernant l'interdiction d'accès à la faculté à l'encontre des étudiants Kamel Amroussia, Atef Ben Salem et Nizar Othmani, le Gouvernement a précisé que la mesure faisait partie de dispositions préventives prises par la faculté pour garantir l'ordre. Quant aux allégations concernant Anis Ben Fraj, le

Gouvernement a signalé que l'intéressé se serait vu retirer sa carte d'étudiant suite aux perturbations auxquelles il aurait participé. Il aurait été renvoyé car ne s'intéressant pas à ses études. Les allégations d'agressions à son égard seraient sans fondement. Concernant Wissem Said et Samir Nefzi, le Gouvernement a précisé qu'ils auraient été déférés devant le conseil de discipline de la faculté de droit de Tunis en mars 2004 pour avoir détruit des urnes durant les élections des conseils scientifiques en 2003 et avoir agressé le secrétaire général de la faculté des sciences économiques et de gestion de Tunis. Le dossier de Wissem Said aurait été classé et l'examen de celui de Samir Nefzi reporté. Concernant l'étudiant Badr Essalem Trabelsi, il aurait été question qu'il soit déféré devant le conseil de discipline de l'Institution de presse et des sciences de l'information de La Manouba, en mars 2004, pour avoir porté atteinte à la personne du Ministre, mais l'administration serait revenue sur sa décision.

547. Par lettre en date du 6 janvier 2005, le Gouvernement a répondu aux appels urgents envoyés le 5 mars et le 1<sup>er</sup> avril 2004 concernant la situation de MM. **Abdellatif Makki** et **Jalel Ayed**. Le Gouvernement a indiqué que, le 29 juin 2004, le Conseil scientifique de la faculté de médecine de Tunis se serait prononcé en faveur de la réintégration des intéressés. La décision serait assortie de deux mesures d'ordre pédagogique : la reprise de certains stages pendant une période de trois mois chacun, au cours desquels ils seront encadrés et évalués, et la réussite aux examens des épreuves du certificat de la session principale de juin 2005 ou celle de rattrapage de juillet 2005. En ce qui concerne l'interruption initiale des études, le Gouvernement a précisé que les intéressés n'auraient jamais été condamnés pour leurs activités syndicales, ou pour leurs opinions politiques, mais pour des infractions de droit commun, à savoir avoir perpétré un attentat dans le but de changer la forme du gouvernement. Par conséquent, ils auraient été emprisonnés, respectivement, pour une période de 10 et 8 ans ainsi qu'à une peine complémentaire de 5 ans de contrôle administratif. En première instance, la demande de réinscription et de réintégration à la faculté de médecine à leur sortie de prison aurait été rejetée, le Conseil scientifique ayant estimé que leur formation n'était plus à jour du fait de leur interruption prolongée d'études et que des risques sérieux pouvaient en résulter pour les patients. Néanmoins, suite aux délibérations, le Conseil aurait décidé d'autoriser leur réintégration, à condition que leurs connaissances médicales et professionnelles soient mises à niveau. En conclusion, le Gouvernement a souligné que le Ministère de l'enseignement supérieur, de la recherche scientifique et de la technologie ne disposait que d'un simple pouvoir de tutelle sur les décisions prises par les institutions universitaires, y compris celles relatives aux inscriptions des étudiants afin que ces décisions soient exclusivement guidées par des considérations d'ordre scientifique ou pédagogique.

#### **Réponses reçues sur des cas soulevés par la Représentante spéciale dans les années précédentes**

548. Par lettre en date du 9 mars 2004, le Gouvernement a répondu à l'appel urgent envoyé par la Représentante spéciale le 23 juillet 2003 concernant M. **Mohamed Nouri** l'informant que l'intéressé aurait toujours été reconnu par les autorités comme une personne propageant de fausses informations de nature à troubler l'ordre public. Par conséquent, le Gouvernement a affirmé que ces accusations resteraient sans fondement. Par ailleurs, le Gouvernement a précisé que M. Nouri fait partie de l'« Association internationale de soutien aux prisonniers politiques » une organisation sans aucune existence légale en Tunisie, et donc tous ses membres et ses fonctions pourraient être passibles de poursuites judiciaires.

549. Par lettre en date du 9 mars 2004, le Gouvernement a répondu à la lettre d'allégation envoyée par la Représentante spéciale le 17 septembre 2003 concernant M<sup>e</sup> **Saida Akremi**. D'après le Gouvernement, M. Akremi aurait systématiquement propagé de fausses informations à l'égard des autorités. Par ailleurs, le Gouvernement a aussi souligné que M. Akremi fait partie de l'« Association internationale de soutien aux prisonniers politiques », une organisation sans aucune existence légale en Tunisie, et donc tous ses membres et ses fonctions pourraient être passibles de poursuites judiciaires. Contrairement à la plainte déposée, M. Akremi n'aurait jamais fait l'objet des supposées agressions le 13 décembre 2003 et il n'y aurait jamais eu de preuves apportées de sa part. Le Gouvernement a indiqué qu'un collègue aurait déposé une plainte au nom de la victime deux semaines après et, suite à cette action, une commission rogatoire aurait été ordonnée et suivrait son cours. En ce qui concerne le vol perpétré dans le cabinet en juin 2002, le Gouvernement a indiqué que les coupables auraient été appréhendés.

550. Par lettre en date du 9 mars 2004, le Gouvernement a répondu à l'appel urgent envoyé par la Représentante spéciale le 17 octobre 2003 concernant **Abdallah Zouari, Mme Sihem Ben Sedrine, Abderraouf Ayadi, Omar Mestiri et Marc Thorner**. En ce qui concerne M. Zouari, un journaliste, le Gouvernement a rappelé sa complicité dans une affaire ayant pour but la subversion du gouvernement actuel et pour laquelle il avait été condamné à 11 ans de prison et 5 ans de contrôle administratif. Le Gouvernement a précisé que son retour en prison pour 9 mois aurait été le fait de son refus de se conformer aux conditions de la peine complémentaire de contrôle administratif après sa libération initiale le 6 juin 2002. Par ailleurs, M. Zouari aurait aussi été condamné le 24 juillet 2003 à 4 mois de prison ferme pour diffamation. Le Gouvernement a affirmé avoir agi selon sa législation dans les deux affaires. En ce qui concerne Sihem Ben Sedrine, Abderraouf Ayadi, Omar Mestiri et Marc Thorner, le Gouvernement a affirmé que les forces de l'ordre auraient agi de façon légitime le 6 février face au refus des intéressés de se disperser.

551. Par lettre en date du 9 mars 2004, le Gouvernement a répondu à l'appel urgent envoyé le 19 novembre 2003 concernant Mme **Radhia Nasraoui**. Le Gouvernement a indiqué que les allégations d'intimidation et de harcèlement seraient sans fondement et qu'il n'y aurait jamais eu de preuves apportées par les personnes supposément agressées. Le Gouvernement a également affirmé que l'action menée par les services de la douane à l'aéroport, à son retour de Turquie le 6 septembre 2003, se serait déroulée dans des conditions conformes aux mesures administratives en vigueur. Le Gouvernement a aussi précisé que suite à l'événement l'intéressée aurait été invitée à reprendre ses affaires. Quant à sa grève de faim, le Gouvernement a souligné que ce n'était pas la première fois que Mme Nasraoui aurait tenté d'attirer l'attention publique et celle des médias par ces types de moyens. Finalement, en ce qui concerne la plainte qui a été déposée par Mme Nasraoui le 16 juillet 2003, suite à une supposée agression le 13 juillet 2003, le Gouvernement a indiqué que l'affaire suivrait normalement son cours.

### **Observations**

552. The Special Representative would like to thank the Government for its responses, and regrets the absence of replies to her other communications. In the case of Abdellatif Makki and Jalel Ayed, the Special Representative, welcomes the decision to authorize both student to

pursue their medical studies. She considers that the Government's explanations in their regard solve the concerns raised in the communication.

553. In the case of the Tunisian university students, the Special Representative acknowledges the explanation provided by the Government and welcomes the discontinuation of the disciplinary proceedings against Wissem Said and Badr Essalem Trabelsi. She observes, however, that the information provided by the Government was not able to entirely dispel her concern with regards to the environment prevailing to the conduct of student union activities. In particular, she remains concerned about the expulsion of Zied Kacem from the Faculté de lettres and Anis Ben Fraj and the decision to forbid access of Kamel Amroussia, Atef Ben Salem and Nizar Othmani to the university premises.

554. She refers to her main report for a detailed analysis of the trends in the situation of human rights defenders in Tunisia, and for her observations to these trends. She encourages the Government to review favorably her request for an invitation to visit the country first sent on 21 August 2002 and reiterated most recently on 2 December 2004.

## Turkey

### Communications sent

555. On 19 December 2003, the Special Representative, together with the Special Rapporteur on adequate housing, 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 Representative of the Secretary-General on internally displaced persons, sent an urgent appeal concerning the situation of **Sezgin Tanrikulu**, Chairman of the Diyarbakir Bar Association, and **Sabahattin Korkmaz**, **Burhan Deyar** and **Habibe Deyar**, all lawyers of the Diyarbakir Bar Association. According to the information received, on 5 December 2003, the Diyarbakir Penal Court held its second hearing in the case reportedly lodged against the four above-mentioned lawyers by the Governorate. Sezgin Tanrikulu, Sabahattin Korkmaz, Burhan Deyar and Habibe Deyar were reportedly indicted on 3 June 2003, under article 240 of the Turkish Penal Code and Article 59/1-2 of the Law on Legal Profession, for "misconduct in duty" and "abusing their legal responsibility" in connection with compensation cases of 96 villagers from Çaglayan village of Kulp district (Diyarbakir), Ziyaret and Uluocak villages of Lice district, which were reportedly evacuated and burned in the years 1993 and 1994. The Court has reportedly adjourned the hearing to 24 December 2004 at 10 a.m. It is believed that the court case was launched against the lawyers to intimidate and prevent them from denouncing the forced evictions and house demolitions resulting in forced displacement, reportedly carried out between 1989-1999 as a form of punishment against the Kurdish population living in the Southern and South-Eastern part of Turkey.

556. On 21 January 2004, 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 concerning the situation of **Sefika Gürbüz**, President of GÖC-DER a Turkish NGO established in 1997 which conducts research and reports on forced displacement issues. According to the information received, on 19 January 2004, the Istanbul State Security Court n°4 reportedly sentenced Sefika Gürbüz to pay a fine of TL 2.180 on the basis of article 312/2 of the

Penal Code, which prohibits "incit[ing] people to enmity and hatred because of class, racial, religious, confessional, or regional differences", reportedly in connection to a press conference that GÖC-DER held on April 2002 to present the publication of a report concerning forced displacement of Kurdish people in Turkey. It is reported that on 3 August 2002, article 312/2 was amended, allegedly in order to narrow its use by requiring "that incitement endanger public order". It is reported that this amendment aimed in part at avoiding the use of this provision against human rights defenders. However, reports indicate that this requirement was on the contrary reportedly used to increase Mr. Gürbüz' sentence. Concern has been expressed that this court sentence may be contrary to the aims of the amendment adopted in 2002. Concern has further been expressed that the court decision may represent a form of reprisal for the human rights reporting activities of GÖC-DER.

557. On 17 February 2004, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a follow-up urgent appeal concerning the situation of **Alp Ayan, Günseli Kaya and Adnan Akin**, staff members of the Human Rights Foundation of Turkey. According to the information received, on 30 September 1999, Alp Ayan, Günseli Kaya and Adnan Akin were arrested in Izmir while on their way to attend the funeral of a prisoner allegedly killed in Ankara Central Prison on 26 September 1999. On 3 October 1999, after a preliminary hearing before the Criminal Court of Izmir, they were reportedly charged with coercion, violence, threat, assault or resistance to a police decision forbidding a meeting and with helping the members of a terrorist organization and disseminating propaganda on its behalf. Their trial has reportedly been continuing for four years, with repeated adjournments. According to new information, on 16 February 2004, Alp Ayan was sentenced to 18 months and one day in prison, Günseli Kaya to 18 months in prison and Adnan Akin to three years in prison by the Aliaga first-instance Penal Court. It is reported that the defendants intended to appeal their convictions. It is further reported that the other 37 defendants have been acquitted. Concern has been expressed that the reported sentencing to imprisonment of Alp Ayan, Günseli Kaya and Adnan Akin may be an attempt at preventing them from carrying out their human rights activities.

558. On 3 March 2004, 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 concerning the situation of **Hüseyin Cangir, Vedha Aydin** and other members of the **Human Rights Association (IHD)**. According to the information received, in December 2003 members of IHD distributed posters throughout Turkey with statements in both Turkish and Kurdish to commemorate Human Rights Day on 10 December 2003. The posters were reportedly confiscated on the order of the Public Prosecutors in Van, Hakkari, Adiyaman and Mardin. Posters in Kurdish were reportedly also confiscated from IHD headquarters in Ankara. According to the information received, Hüseyin Cangir, head of the Mardin Branch of IHD, has allegedly been charged under article 256 536 of the Penal Code for "hanging posters on billboards belonging to the municipality without the permission of the governor" in connection with the hanging of posters carrying statements saying, "Peace will win, all equal, all different", in Turkish and Kurdish. It is reported that Mardin Penal Court began to hear his case on 11 February 2004 and that the hearing was adjourned until 17 March 2004. Similar proceedings against the heads of the Van Branch of IHD are pending before the Van Penal Court and a hearing of the case against Vedha Aydin of the Sirrt Branch of IHD is scheduled for 24 March 2004. Concern has been expressed that these judicial proceedings may constitute means of

harassment against human rights defenders. Concern has also been expressed that these proceedings may represent a form of resistance from the judiciary to the implementation of the fourth harmonization package (Law 4778), which was adopted on 2 January 2003 and reportedly amended article 4 of Law No. 2908 on associations, reportedly removing limitations upon the promotion or use of non-Turkish languages and cultures as well as article 6 of the same law allowing the use of "illegal languages" in the various activities of an association, including publications, conferences and posters.

559. On 17 March 2004, the 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 violence against women, sent an urgent appeal concerning three Iranian nationals, **Farideh Asadi** (f), **Nazila Mohamad Hasani Zamani** (f) and **Soheila Pordel** (f), who have allegedly been seeking asylum in Ankara. They were due to be deported to Iran with their children in four days. All three women were said to be women's rights activists, and members of the International Federation of Iranian Refugees (IFIR)-Turkey, who, while in Turkey, have participated in public conferences and meetings in the defence of women's human rights in Iran, during which they have expressed criticisms of the Iranian regime, and called in radio interviews for strikes against the Government of the Islamic Republic of Iran. Concerns and fears have therefore been expressed that their right to life and security of the person could be at risk if they are returned.

560. On 25 May 2004, 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 concerning **Berfin Peyam**, aged 12, and members of her family who have reportedly been receiving threats since she lodged a complaint that she had been severely beaten by police officers in Diyarbakir, southeastern Turkey. Concerns have been expressed for their safety. According to the information received, Berfin Peyam was reportedly abducted from the street in Diyarbakir on 19 February 2004 by people carrying walkie-talkies, who blindfolded her and took her away in a car. They asked her where her sister was, and when she did not reply they reportedly punched her repeatedly in her mouth and knees, so that her mouth began to bleed heavily. She was then reportedly taken to a place which is believed to be the Anti-Terror Branch of Police Headquarters in Diyarbakir where she was given treatment for her mouth but then beaten again and threatened. She was released later that day. It has been brought to our attention that when Berfin Peyam applied to the local branch of the Human Rights Association (Insan Haklari Dernegi, IHD) she was unable to speak and had to write her complaint. Medical reports confirm these injuries. After IHD lodged a complaint on her behalf about the incident with the State Prosecutor, Berfin Peyam and her family, who were staying outside Diyarbakir city, reportedly received five or six phone calls from people who falsely identified themselves as IHD members, asking them to come to Diyarbakir. On 19 May, Berfin Peyam and her mother visited the office of IHD to seek advice. IHD reportedly sent a fax notifying a major human rights NGO about its concerns for the safety of Berfin Peyam and her family. Shortly after, Berfin Peyam reportedly received an anonymous call, asking her why she contacted this NGO and telling her that it would be very bad for her now.

561. On 6 August 2004, the 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 concerning **Abdulhekim Gider**, a lawyer, **Abdullah Gündogdu**, **Tahsin Atak**, and **Ihsan Gülmek**. According to the allegations received, on 30 July 2004, police detained Abdullah Gündogdu, Tahsin Atak and Ihsan Gülmek in the Pervari district of Siirt Province, on suspicion of aiding and abetting an armed organization, the Kurdistan People's Congress (Kongra-Gel), formerly known as the Kurdistan Workers' Party (PKK). Their lawyer, Abdulhekim Gider, came to meet with them at the police station in Pervari on 1 August. While he was waiting, a police officer asked him, "How can you defend traitors? This lot are terrorists ... haven't you got a conscience?" When Abdulhekim Gider saw him, Abdullah Gündogdu appeared exhausted and scared and could not stand upright. He said that he had not been given any food since the day he was detained, and that he had been stripped naked and sprayed with cold pressurized water for two-and-a-half hours, especially at his kidney area. He said that he had also had his testicles squeezed and been beaten about the head. Tahsin Atak and Ihsan Gülmek only said that they had not been given food, but they both appeared tired and frightened. Tahsin Atak later complained that he had been severely beaten on his body and legs. When his lawyer met with him in prison, there was still blood on his legs and socks from this. That day, Abdulhekim Gider tried to lodge a complaint that Abdullah Gündogdu had been tortured, but the Pervari prosecutor was reluctant and allegedly tried to persuade him not to do so. When he returned to the prosecutor's office on 2 August, a police officer reportedly pointed his rifle at the lawyer and said to another officer, "I might accidentally pull the trigger". When Abdulhekim Gider went back to the police station to meet with his clients the same day, he says he was prevented from entering by seven or eight police officers, including the local police chief, who surrounded him and apparently insulted and threatened him, because he had lodged a complaint of torture against them. After he appealed to a senior police officer who came to the station, Abdulhekim Gider was allowed to meet with his clients. As the lawyer left the police station, one of the police officers who had earlier threatened him told him, "Your job is not going to be easy any more". When Abdulhekim Gider asked what this meant, the police officer told him, "Go away! I don't want to see you again. Bad things happen, and they are going to happen". Police have pressured the detained men's relatives to change their lawyer, and police officers in Pervari are reported to have threatened Abdulhekim Gider since then. Groups of police have followed him in the street, and police vehicles have patrolled conspicuously outside buildings where he has been conducting meetings with the families of his clients. Abdullah Gündogdu, Tahsin Atak and Ihsan Gülmek were all remanded to Siirt prison at 11 p.m. on 3 August.

562. On 6 October 2004, the Special Representative sent a letter of allegation concerning Mr. **Ferhat Kaya**, Chair of the pro-Kurdish Democratic People's Party (DEHAP) in the Central District of the city of Ardahan in northeastern Turkey, and a Kurdish human rights activist. He is trying to obtain rights for people affected by the Baku-Tbilisi-Ceyhan (BTC) pipeline in particular, by ensuring that locals living in Kurdish Turkey obtain the compensation to which they are entitled and that their rights are respected by the European Court of Human Rights. According to the information received, on 5 May 2004, Ferhat Kaya was detained after his attendance at meetings with those affected by the pipeline and with trade unionists in Ardahan. He was reportedly humiliated and beaten during his detention. It is alleged that an officer pointed a gun at his head, verbally abusing him and his family, and that he was also pushed to the ground and kicked repeatedly. Witnesses stated that he had blood on his clothes and deep cuts on his arms and elsewhere. According to medical reports, these are consistent with torture. He was allegedly called a "terrorist" by the court prosecutor, although he was not attending the court

hearing. His detention finished on 21 May 2004 after the payment of Turkish Liras 2,000 bail. Concern has been expressed that Mr.Kaya's detention was caused in order to prevent him from defending local people affected by the Baku-Tbilisi-Ceyhan pipeline.

### **Communications received**

563. By letter dated 20 January 2004, the Government replied to the urgent action sent by the Special Representative on 19 December 2003 concerning the situation of **Sezgin Tanrikulu, Sabahattin Korkmaz, Burhan Deyar and Habibe Deyar**. The Government informed the Special Representative that the aforementioned persons had been acquitted on 24 December 2003 and also stated that the Government of Turkey attached great importance to the successful return of displaced citizens and in this respect had launched the "Back to Village and Rehabilitation Project" to enable the return and resettlement of displaced persons as well as the establishment of social and economic infrastructure and sustainable living standards for them. The Government stated that it would continue to take all feasible measures for the success of the voluntary return processes and stood ready to cooperate with the relevant international organizations.

564. By letter dated 12 March 2004, the Government replied to the urgent appeal sent on 17 February 2004, and to the urgent appeal sent on 22 October 2003, both concerning **Alp Ayan and Günseli Kaya**. The Government reported that, on 13 February 2004, the Aliaga first-instance Penal Court convicted Alp Ayan and Günseli Kaya and sentenced them to minimum penalties set forth in article 32/1 of Law no. 2911 on meetings and demonstration marches. Alp Ayan was sentenced to 18 months and one day of imprisonment and a monetary fine of 60,750,000 Turkish Liras (approximately US\$ 50), while Günseli Kaya was sentenced to 18 months imprisonment and a pecuniary fine of 60 million Turkish Liras (approximately 50 USD). The verdict was not final at the time and could be appealed before the Court of Cassation. The Government stated that Alp Ayan was acquitted from 13 cases out of a total of 16.

565. By letter dated 29 March 2004, the Government responded to the urgent appeal sent on 17 March 2003. The Government reported that, according to preliminary information received from the relevant Turkish authorities, the requests for asylum for **Farideh Asadi, Nazila Mohamad, Hasani Zamani and Soheila Pordel** had been refused by the United Nations High Commissioner for Refugees office in Ankara. It stated that additional information would be provided once received.

566. By letter dated 20 April 2004, the Government provided an additional reply to the urgent appeal sent on 17 March 2003. According to the Government, the communication sent by the Special Representative stated that there were four people concerned, whereas the number of people is three, since Nazila Mohamad Hasani Zamani appeared to be the name of one person. According to the Government, **Farideh Asadi, Nazila Mohamad Hasani Zamani and Soheila Pordel** had objected to the decision by the UNHCR Office in Ankara to refuse their requests for asylum, as referred to in the reply dated 29 March 2004. The Government stated that these persons asked the UNHCR Office in Ankara for a reassessment of their initial application, and that the Office accepted to reassess the application of Soheila Pordel, while refusing the requests of the two others. The Government further informed that these persons have applied for

obtaining permission to stay in Turkey with an “ordinary alien” status. This application was at the time being considered by the Ministry of Interior.

567. By letter dated 11 May 2004, the Government provided a further reply to the urgent appeal sent on 17 February 2004. The Government reported that, on 13 February 2004, the Aliaga Penal Court of First Instance convicted **Adnan Akin** to three years’ imprisonment, in line with article 32/3 of the Penal Code. The conviction was based on his violent acts against a gendarmerie officer, during a demonstration held on 30 September 1999, at which Alp Ayan and Günseli Kaya also participated. According to the Government, the court increased his imprisonment by one additional day in line with article 81/1-3 of the Turkish Penal Code, which regulates penalties for repeat offences.

568. By letter dated 12 May 2004, the Government replied to the urgent appeal sent on 21 January 2004. The Government confirmed that, on 19 January 2004, the Istanbul State Security Court No. 4 sentenced **Sefika Gürbüz**, in line with article 312/2 of the Penal Code. She was found guilty of the alleged crime of “inciting hatred and enmity among people because of racial and regional differences in a way that is likely to endanger the public order”. The conviction related to her reading of a report titled “Report on the Involuntary Immigration Report, 1996-2001” and its annexes, during a press conference held in Istanbul on 17 April 2002. The Government stated that she was sentenced to one year’s imprisonment. This penalty should be converted to a fine of 2,180,700,000 Turkish Liras (approximately US\$ 2,112), based on her good conduct exercised during the proceedings and in conformity with article 59/2 of the Penal Code. Also, the execution of the punishment would not be suspended. According to the Government, both Sefika Gürbüz and the Public Prosecutor appealed the decision.

569. By letter dated 25 May 2004, the Government replied to the urgent appeal sent on 3 March 2004. The Government reported that, on 10 December 2003, the Van Penal Court decided that the hanging of posters, prepared and printed by the **Human Rights Association (IHD)**, to public places was illegal. The decision was based on articles 310 and 311 of the Penal Code. Hence the Public Prosecutor’s Office at the Van Security State Court ordered the collection of these posters, in line with Article “Add. 1” of the Press Law No. 5860. According to the response, on 9 December 2003, the Public Prosecutor’s Office in Derik, a town of Mardin, filed a lawsuit against **Hüseyin Cangir** with the Derik Penal Court, in line with the article 536/1 of the Penal Code. This related to hanging posters in two different places without the permission of the *Kaymakam*, the official in charge of governing a provincial district. The case was pending at the time. The Government stated that, on 23 December 2004, the Van Penal Court found that the statements on the posters did not constitute a crime, and adopted a decision of non-prosecution of the head of the Van Branch of IHD.

570. By letter dated 2 July 2004, the Government provided an additional reply to the communication sent 3 March 2004. The Government reported that, on 21 April 2004, the Derik Penal Court, First Instance, convicted **Hüseyin Cangir** of the charges referred to in the Government reply dated 25 May 2004 and in line with articles 536/2, 536/3, 536/5, 59 and 72 of the Penal Code. The court sentenced him to a fine of 361,008,000 Turkish Liras (approximately US\$ 241), and later suspended the execution of the penalty.

571. By letter dated 14 July 2004, the Government replied to the urgent appeal sent on 25 May 2004. The Government reported that **Berfin Peyam**'s mother has lodged a complaint to the Public Prosecutor's Office in Diyarbakir concerning the alleged ill-treatment of Berfin Peyam. Upon the complaint, the Public Prosecutor's Office initiated an investigation, and several testimonies were heard. The Government argued that these testimonies establish that Berfin Peyam was with the family of a schoolmate the day under question. It also stated that a medical report submitted by her mother indicated that Berfin Peyam at the time appeared calm, yet concerned, with certain difficulty of expressing herself verbally, which would gradually diminish. According to the Government, Berfin Peyam was later re-examined, and the report of the Forensic Medicine Institute does not indicate any traces of ill-treatment or physical violence directed towards her. The Public Prosecutor's Office decided that the allegations of the complainant was unfounded, and reached a decision of non-prosecution. Moreover, the Government stated that the Prosecutor's Office decided that legal proceeding should be initiated against Berfin Peyam on grounds of "simulation of infringement", as the complainant incriminated public officials upon the statements of Berfin Peyam. In line with article 164 and successive provision of the Penal Code, the decision could be appealed at the Siverek Heavy Penal Court in 15 days after the communication of this decision. According to the reply, the decision was communicated on 7 June 2004.

572. On 14 October 2004, the Government sent a response to the urgent appeals sent on 6 August 2004 concerning **Abdulhekim Gider, Abdullah Gündogdu, Tahsin Atak, and Ihsan Gülmek**. The Government states that Mr. Gündogdu, Mr. Atak, and Mr. Gülmek were suspected of committing the crimes of aiding and abetting the PKK/KONGRA-GEL terrorist organization, recruiting new members for the said organization and arranging their travel to join its rural cadre, and were detained in this respect on 30 July 2004 at around 12 o'clock in Pervari, Siirt. During the search carried out at Mr. Gündogdu's house, the police found money in local and foreign currencies and clothing, which were understood to be transferred to the terrorist organization, along with other logistical supplies and an unlicensed hunting rifle. On the same day, under the authorization and instruction of the Public Prosecutor, they were put into the detention centre at the Pervari Police Station. They were informed of their legal rights and relevant documents were prepared accordingly. They underwent medical examinations that very day. On 3 August 2004, the suspects were taken to the Office of the Prosecutor, and on their way they underwent another medical examination at the Pervari State Hospital. Following their interrogation with the Public Prosecutor they were referred to the Criminal Court of Peace in Pervari where the court decided to arrest them on the grounds of aiding and abetting the terrorist organization. They were then committed to the prison in Siirt. Legal proceedings against the three suspects are under way. The Government further stated that Abdulhekim Gider, the lawyer of the detainees, filed a complaint with the Public Prosecutor's Office on 1 August 2004 on the grounds that his clients were subjected to ill-treatment. Since the medical examinations carried out before and after the detention periods concerned showed that there were no signs of ill-treatment, the investigation initiated in this regard was concluded with a decision of non-prosecution. Mr. Gündogdu appealed against this decision and the appeal is being considered by the Batman Heavy Penal Court. On 1 and 2 August 2004, Mr. Gider visited his clients, but he did not appear during the interrogation of the suspects despite having been informed of the time and venue of the interrogation. Moreover, before his second visit, while entering the police station and carrying to black plastic bags, upon refusing to present his ID, an argument broke out between him and the security officers during which he threatened the officers.

**Responses received to communications sent by the Special Representative in previous years**

573. By letter dated 25 February 2004, the Government provided an additional reply to the urgent appeal sent jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 21 July 2003 concerning **Sevim Yetkiner** and **Baki Çelebi**. The Government referred to its previous reply to this communication, by letter dated 21 August 2003, where it stated that a lawsuit had been filed against these persons at the Erzurum State Security Court on 14 July 2003. This court adopted a decision of non-competence and referred the case to the Dogubeyazit Penal Court of First Instance. A lawsuit was filed against Sevim Yetkiner and Baki Çelebi, along with 11 other accused persons, on ground of aiding and abetting the PKK-KADEK terrorist organization and pursuant to article 312/1 of the Penal Code. The Government reported that the next hearing of the case was to be held on 19 February 2004. It further stated that, while in custody, Sevim Yetkiner and Baki Çelebi were reminded of their right to demand legal counsel, but declined to demand a defence lawyer. According to the reply, they did not report any kind of ill-treatment during their custody, and this was also confirmed by a medical report. They were released on 6 August 2003.

574. By letter dated 12 March 2004, the Government replied to the urgent appeal sent on 17 February 2004, and to the urgent appeal sent on 22 October 2003, both concerning **Alp Ayan** and **Günseli Kaya**. This reply is summarized above.

575. By letter dated 12 March 2004, the Government responded to the urgent appeal sent jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 29 October 2003 on the **Human Rights Foundation of Turkey** (HRFT). The Government referred to its previous response dated 30 December 2003. It reported that the third and final hearing in case of Directorate General of Foundations (DGF) versus the HRFT was held on 9 March 2004. The legal representatives of DGF chose not to appear before the court, which implies that DGF will not follow through the case. The Government stated that the case in question therefore have been taken off the agenda of the concerned court.

576. By letter dated 20 May 2004, the Government responded to the letter of allegation sent jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 10 November 2003. The Government confirmed the charges of **Eren Eskin** and **Erdal Tas**, relating to an article published in the *Ikibinde Yeni Gündem* newspaper. According to the Government, the Court acquitted these two persons on 16 April 2002. The verdict of the Court was not appealed and is therefore final.

577. By letter dated 16 July 2004, the Government replied to the letter of allegation sent by the Special Representative on 14 October 2002 concerning **Alp Ayan** and **Ecevit Piroglu**. The Government commented upon a statement in the communication, where the Special Representative referred to allegations that the persons concerned faced a sentence up to six years imprisonment for “having insulted the Turkish armed forces” and the Ministry of Justice, after they took part in a protest meeting on 10 February 2002. Upon inquiries conducted by the competent authorities, this allegation could not be verified. The Government asked for additional information on either the name of the city in which the alleged meeting took place, or on the

name of the relevant Public Prosecutor's Office which initiated the investigation, in order to clarify the matter and give accurate information on the case.

### **Observations**

578. The Special Representative thanks the Government for its numerous replies. At the invitation of the Government of Turkey, she conducted an official visit to the country in October 2004. She refers to the separate report, submitted to the Commission (E/CN.4/2005/101/Add.3), for a detailed overview of the situation of human rights defenders in Turkey.

## **Turkmenistan**

### **Communications sent**

579. On 29 April 2004, the Special Representative sent a letter of allegation concerning the new **Law on Public Associations** and the corresponding criminal code amendments. According to the information received, on 21 October 2003, the Government of Turkmenistan adopted a new law on association which regulates the establishment and operation of associations and NGOs within the country, which reportedly came into effect on 20 November 2003. According to the information received, under article 17 of the new law all public associations are now required to register with the Ministry of Justice (*Adalat*) or face criminal charges, including imprisonment up to one year and "corrective labour" for activities if unregistered. It has been further reported that the registration procedures set by the new law remain unclear and render the registration of organizations unduly difficult. Concern has been expressed with respect to the reportedly wide-ranging power granted by article 18 to the Ministry of Justice with regards to grounds on which registration can be denied. Additional concern has been expressed with regards to the requirement stipulated by article 17 that organizations re-register for any change in their charter and any factual changes in their registration details. Further concern has been expressed concerning article 33, which reportedly requires all existing associations to now re-register with the Ministry. It is further alleged that the new law places undue restrictions on the work of foreign and international NGOs based in Turkmenistan, which are required to have a minimum of 500 members, as opposed to 50 members for national associations and just five for local ones. As well, an NGO has to have a branch abroad in order to be eligible for registration under the category of "international association". Concerns have also been expressed with regards to restrictions imposed on authorized activities for public associations by article 21, which establishes a list of permitted activities. Additionally, according to the information received, article 22 establishes undue scrutiny by the Ministry of Justice into the activities of registered association by requiring that associations submit annual reports and copies of management decisions on their activities to this Ministry, and to provide it with prior notification of any events the association organizes and to allow for government officials to attend. Finally, concern has been expressed that articles 21 and 22, respectively, place undue restriction on cooperation with international NGOs and access to foreign funding. Particular concern has been expressed that, taken as a whole, the November 2003 Law on Public Associations imposes conditions on associations conducting human rights activities which may be in violation of the Declaration on the Right and Responsibilities of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

### **Communications received**

580. By letter dated 17 May 2004, the Government replied to the communication sent by the Special Representative on 29 April 2004 regarding **the Law on Public Associations**, which came into force on 21 October 2003. In its response, the Government reiterated its commitment to provide the highest level of access to human rights for its citizens. The Government stated that the new law gives every citizen the choice to create or enter into public associations, while at the same time determining the administrative and legal conditions for the creation, management, reorganization and closure of public associations. The act also provides for the registration of all public associations and the re-registry after any amendments to their charter, this procedure applies to national and international groups equally. The Government also maintained that only public order and general well-being can guarantee the recognition and respect of all rights for all people. According to the Government, the provisions of the new law are by no means discriminatory towards international organizations. The Government confirmed its commitment to the United Nations and assured that its amendments were introduced in conformity with the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

### **Observations**

581. The Special Representative would like to thank the Government for its prompt response in connection with a communication sent by her regarding the new Law on Public Associations. The Special Representative takes note of the Government's explanation of provision included in its new Law on Public Associations. The Special Representative regrets to note, however, that the Government's replies in relation to these cases do not dispel the grave concerns she raised in her communication with regards to the restrictive environment created by such legislation and its potential incompatibility with the Declaration on Human Rights Defenders. The Special Representative therefore urgently invites the Government to review the Law on Public Associations in the light of the concerns expressed in her communication. She reiterates her offer to the Government to provide any support it may find useful in crafting legislation that strikes the right balance between, on one side, the need for the State to provide a framework regulating the formation and operation of NGOs, and freedom of association on the other side. She also restates her belief that, in order to engage in a meaningful dialogue in this matter, an official visit to Turkmenistan may be very helpful.

## **United States of America**

### **Communications sent**

582. On 4 March 2004, the Special Representative, in conjunction with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, transmitted an urgent action regarding the reported refusal to allow observers from three human rights groups permission to attend and observe military commission trials of detainees at Guantanamo Bay, Cuba, and the alleged restriction on freedom of expression imposed on lawyers. According to the information received, **Amnesty International**, **Human Rights First** and **Human Rights Watch**, international non-governmental human rights organizations, reportedly wrote to the

United States Department of Defense in May 2003, requesting permission to observe the military commission trial proceedings, in follow-up to the United States administration's commitment that the commission would be open to the public. It is reported that in January and February 2004, respectively, Amnesty International and Human Rights Watch received a written response from the Department of Defense reportedly denying them access to the military commissions on the basis of "limited courtroom seating and other logistical issues". The letter also reportedly stated that seating would only be provided to select members of the press and to the International Committee of the Red Cross. Human Rights First has reportedly not yet received a response to its request. According to the information received, on 20 February 2004, the three organizations sent a joint letter to the Secretary of Defense, Donald Rumsfeld, protesting their exclusion from the proceedings. It is further reported that, under the military commission rules, civilian and military lawyers can reportedly only speak to the press once they have received permission from the military officials in charge of the proceedings and that the granting of permission may be limited to certain topics. Concern has been expressed that the reported denial of access for these independent human rights organizations to trial proceedings in Guantanamo Bay may represent an attempt to limit independent scrutiny of the military commission proceedings and that the denial would weaken the international human rights monitoring activities undertaken by these organizations. Additional concerns have been expressed that the restrictions reportedly imposed upon lawyers involved in the proceedings may infringe upon their independence and compromise the obligation to assure a fair trial

#### **Responses received on cases sent by the Special Representative in previous years**

583. By letter dated 21 October 2004, the Government replied to the communication sent by the Special Representative on 6 November 2003 regarding the situation of two anti-war protestors, **Willow Rosenthal** and **Erik Shaw**. In its response, the Government informed the Special Representative that all of the 25 arrested anti-war protestors had now been released, after the charges against one defendant were dropped on 10 March 2004, and against the remaining 24 defendants on 22 April 2004. Apparently, the decision was taken after several peaceful protests by the same organizations were held in the ensuing months. Further, the Oakland, Calif., Police Department, although by no means as an admission of guilt for alleged crimes, has changed its crowd-control tactics. In particular, greater efforts have been made to coordinate with protest organizers before the event and new restrictions have been placed on the use of non-lethal munitions. The Government confirms that a civil lawsuit has been filed before a federal court by nine International Longshore and Warehouse Union members and 31 other protestors. It is stated that the two parties were, at the time of writing, engaged in out-of-court settlement negotiations. In reference to specific allegation of the surveillance of Erik Shaw, the Government declined to comment, but highlighted that no domestic or international law prohibited the photographing of individuals in public. They also stated that no government action had been taken against Mr Shaw or his organization.

#### **Observations**

584. The Special Representative would like to thank the Government for its response to last year's communication. The Special Representative is encouraged by the decision to review the nature of police procedures and tactics in this context. She looks forward to remaining informed

about decisions taken in this respect. She regrets that at the time of the finalization of her report no response had been received to her communication sent this year.

## Uzbekistan

### Communications sent

585. On 23 December 2003, 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 question of torture, sent a follow-up urgent appeal concerning allegations that a conference on the death penalty organized in Tashkent by the non-governmental organization **Mothers against the Death Penalty and Torture**, has been prevented from taking place. According to information received, on 12 December 2003 the authorities indicated that the conference could not be held since it was organized by an unregistered organization. Mothers against the Death Penalty and Torture has reportedly been denied registration by the authorities. Representatives of the organization have allegedly been the subject of harassment in the past. They have allegedly received death threats after their participation in the annual meeting of the European Bank for Reconstruction and Development (EBRD) in May 2003. Members of the organization were reportedly told repeatedly by Secret Service officers that their organization was "blacklisted" and that the Secret Service was awaiting orders to close the organization. Concern has been expressed that Mothers against the Death Penalty and Torture has been targeted due to its work on behalf of human rights in the context of the death penalty and torture.

586. On 16 January 2004, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a follow-up urgent appeal concerning **Ruslan Sharipov**, a 25-year-old journalist and human rights defender. According to the information received, Ruslan Sharipov was allegedly excluded from a general amnesty announced in December 2003 by the President, reportedly on the ground that the crime he committed was "too serious". According to our previous information, Ruslan Sharipov was arrested on 29 May 2003 and convicted on 13 August by the Tashkent City Court on charges of homosexual conduct, sex with a minor and involving minors in "antisocial behaviour" (articles 120, 128 and 127 of the Criminal Code). He was reportedly first sentenced to five and a half years in prison, which was subsequently reduced to four years following his appeal in September. This was maintained despite reports indicating that forensic medical tests conducted after his arrest found no evidence of sexual relations with minors and despite reported evidence that his confessions were obtained under duress. Reports also indicate that Mr. Sharipov may have been framed in connection to his human rights activities, including his reporting on police corruption and human rights abuses in the country. Fears have been expressed that his exclusion from the presidential general amnesty may aim at further targeting him for his activities in the defence of human rights. It is reported that calls have been made for the presidential general amnesty to extend to his conviction.

587. On 16 February 2004, 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 question of torture, sent an urgent appeal concerning **Fatima Mukhadirova**, a 62-year-old woman, who was reportedly sentenced on 12 February 2004 in a

closed court hearing to six years in prison with hard labour for possession of unsanctioned religious literature, membership in a prohibited religious organization, and "attempted encroachment on the constitutional order". The authorities alleged that Fatima Mukhadirova is a member of Hizb ut-Tahrir (Party of Liberation), a non-violent Muslim group advocating the peaceful establishment of an Islamic State in Uzbekistan. It is believed that Mrs. Mukhadirova, whose youngest son is reportedly also in prison on charges of Hizb ut-Tahrir membership, may have been arrested for having spoken out during the mission of the Special Rapporteur on the question of torture in Uzbekistan against the ongoing arrests of independent Muslims and for having reported on the case of her eldest son, Muzafar Avazov, a religious prisoner who died in prison from torture in August 2002.

588. On 25 February 2004, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a follow-up urgent appeal concerning **Fatima Mukhadirova**. According to the information received, on 12 February 2004 Fatima Mukhadirova was sentenced in a closed court hearing for possession of unsanctioned religious literature, membership of prohibited religious organizations and unconstitutional activities. It has been alleged that the accusations were unproven and that her arrest may have been linked to her having raised the case of the death of her son with international bodies and in particular her meeting with the Special Rapporteur on the question of torture. On 24 February 2004, the Tashkent city court reportedly decided to release Fatima Mukhadirova, on the grounds of her gender and her old age, and sentenced her to pay a fine of 280,000 sums, which is reportedly equal to two-thirds of the average annual income. The Special Representative and the Special Rapporteur welcome the reported release of Ms. Mukhadirova. They express their concern, however, at the heavy fine imposed on her. Fear has been expressed that the fine may represent an attempt to hinder her human rights activities and in particular her efforts to obtain an investigation into the death of her son in custody.

589. On 26 February 2004, the 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 **Muidinjon Kurbanov**, chairman of a regional branch of the Human Rights Society of Uzbekistan (HRSU) and of a coalition of human rights organizations, as well as chairman of the Jizzakh province branch of Birlik (Unity), an opposition and pro-democracy political movement. According to the information received, on 5 January 2004, Muidinjon Kurbanov was reportedly taken to the provincial Department of Internal Affairs by officers from the Jizzakh Province Department for Anti-Terrorism and Narcotics, interrogated for several hours about his human rights and political activities and asked to reappear for further interrogation on the following day. On 16 February 2004, he was reportedly arrested on weapons and narcotics charges, after police conducted an illegal search of his property. According to the information received, the police reportedly found weapons and narcotics in a chicken coop close to his home. It is reported that his wife recounted that on 6 February 2004 an unknown man had entered the courtyard and ran away when she went to investigate. It is further alleged that, on the following morning, she found that the lock of the chicken coop had been opened, raising suspicions that evidence may have been planted. Muidinjon Kurbanov was reportedly held incommunicado for three days, during which time he was allegedly interrogated, threatened and forced to sign a confession dictated by the police. In particular, it is alleged that the police threatened that if he did not confess to the charges they

would bring in his wife and take him to the basement where they would "show him" why he should confess. Muidinjon Kurbanov was reportedly denied access to his lawyer until 20 February 2004, after the latter filed a complaint with the procuracy. Muidinjon Kurbanov is reportedly currently in custody at the Jizzakh City Department of Internal Affairs. Fears have been expressed that he is at risk of ill-treatment. Concern has also been expressed that his arrest may be linked to his human rights and political work. Concern is heightened by the fact that Muidinjon Kurbanov had already been arrested in 1998 on trumped-up narcotics charges. On that occasion, he was reportedly threatened with charges of religious extremism, and repeatedly beaten while in custody, which reportedly caused one of his kidneys to burst.

590. On 14 April 2004, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a follow-up urgent appeal concerning **Ruslan Sharipov**, a journalist and human rights activist. Ruslan Sharipov was reportedly found guilty on 13 August 2003 under articles 120 (homosexuality) and 128 (sexual relations with a minor) of the Criminal Code, despite the lack of forensic medical evidence, and sentenced on appeal to four years in prison. He was reportedly subjected to torture and threats while in detention. It is widely believed that his prosecution was linked to his work as an investigative journalist and a human rights defender, in particular reporting on corruption and human rights abuses. According to recent information received, Mr. Sharipov, who is reportedly eligible for early release on 11 June 2004, has reportedly been placed since 13 March 2004 under house arrest and is required to report to a low-security prison for work every day. It is reported that such a transfer is automatic once one-quarter of a sentence has been completed. In this context, it is alleged that he has been barred from resuming his human rights and journalism activities, under threat of losing the possibility of early release. In particular, it is reported that Mr. Sharipov will not be allowed to travel to Istanbul in late May 2004 to receive an award on the occasion of the World Newspaper Congress and World Editors' Forum.

591. On 30 June 2004, 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 concerning Mr. **Bobomurod Abdullayev**, director of OZOD OVOZ, a non-governmental organization that works on freedom of opinion and expression in Uzbekistan. On 12 June 2004, Bobomurod Abdullayev came to Baku as a participant in the eleventh General Meeting of the International Freedom of Expression Exchange (IFEX). On 13 June 2004, police reportedly visited his house in the Kizil-Shark Chilanzarsk region of Uzbekistan. His wife was allegedly questioned by the police about his travel and about the work of the IFEX conference. According to information received, on 14 June, a policeman returned to Abdullayev's home and reportedly told his wife that there was a warrant outstanding for his arrest. Since then, Abdullayev's wife and two young children have left their home out of fear for their security. Although no charges were apparently specified, it is believed that this police harassment and the threat of arrest may be connected with OZOD OVOZ's activities on behalf of freedom of expression in Uzbekistan.

592. On 3 August 2004, the Special Representative sent a letter of allegation concerning the reported closure of the **Open Society Institute** (OSI) in Tashkent. According to information received, on 14 April 2004 the Open Society Institute in Tashkent was shut down by the Government of Uzbekistan owing to the reported refusal by the Ministry of Justice to renew its registration. It is further alleged that, before the closure, members of staff in the OSI office in Tashkent received death threats and were subjected to other forms of intimidation. According to

reports, the Uzbek authorities allegedly stated that OSI materials supplied to universities in Uzbekistan “distort(ed) the essence and the content of socio-economic, public and political reforms conducted in Uzbekistan” and “discredit(ed) Uzbek government policies”. The decision was reportedly based on a December 2003 decree in which the Government of Uzbekistan requested international NGOs operating in the country to register with the Ministry of Justice and the Ministry of Foreign Affairs before 1 April 2004. It is reported that this decree may have been adopted to enforce the law on non-governmental and non-commercial organizations adopted in May 1999, which requires international NGOs to register with the Ministry of Justice of the Republic of Uzbekistan. Concern is expressed that the OSI section based in Tashkent may have been targeted in an attempt to prevent it from carrying out human rights activities. Further concern is expressed that this law may be implemented to create a nexus between NGOs and terrorism.

### **Communications received**

593. By letter dated 6 January 2004, the Government replied to the urgent appeal sent on 23 December 2003. The Government stated that **Mothers against the Death Penalty and Torture** had not filed an application for official registration of its statutes at the Ministry of Justice in accordance with the Non-State Non-Profit Organizations Act and the Voluntary Associations Act and was thus an unregistered non-governmental organization. As such, its activities may be considered as contrary to the national legislation in force. The Government indicated that the organization was prohibited to hold a conference on the death penalty in Tashkent on 5 December 2003, owing to its lack of registration. In its reply, the Government provided information concerning the issue of death penalty in Uzbekistan. In particular, it pointed out that the death penalty has been deleted from several articles of the Criminal Code, and that the actual number of sentences involving the death penalty has decreased since 1999. The Government also mentioned that an individual sentenced to death may appeal against the judgement by several means, and that, in several instances, the death penalty has been commuted to deprivation of liberty.

594. By letter dated 1 March 2004, the Government replied to the urgent appeal sent on 25 February 2004. The Government indicated that, on 24 February 2004, in second instance, the court of appeal of the Tashkent City Court on criminal cases revised the sentence adopted by the Shayhantohur District Court on 12 February 2004 with regard to **Mrs. Fatima Mukhadirova**. The court replaced the previous ruling of six years imprisonment with a sentence relating to a fine under articles 57 and 60 of the Criminal Code. According to the reply, Mrs. Mukhadirova was released from imprisonment.

595. By letter dated 22 April 2004, the Government replied to the urgent appeal sent on 26 February 2004. The Government reported that, on 16 February 2004, a search was conducted in the home and adjacent premises of **Muidinjon Kurbanov**, based on a decision approved by the procurator of Zarbdar district, Djizik *oblast*. On 19 February 2004, Mr. Kurbanov was charged based on discovering weapons, ammunition and narcotics during this search. According to the Government's reply, Mr. Kurbanov was held criminally liable for the commission of offences, unrelated to his human rights protection activities. The Government underlined that he was detained in accordance with the Code of Criminal Procedure, and that, on 27 February 2004, this measure was given up in exchange for his signing a pledge of good conduct. It stated that three

lawyers represented him during the investigation, and that they participated when the basic investigative measures were carried out. According to the reply, the preliminary investigation into the case had ended, and, on 1 March 2004, the case was referred to the court for consideration of the merits.

596. By letter dated 27 October 2004, the Government replied to the urgent appeal sent on 30 June 2004. The Government stated that, on 14 June 2004, the authorities had checked whether residents of all apartments and houses in “Qizil Sharq” area of the Chilanzar District were complying with passport regulations, including the house where **Bobomurod Abdullayev** lives. The control was carried out by the Chilanzar District Department for internal affairs, the chairperson of the community of citizens and housing administrators, under the instruction of the Tashkent City Internal Affairs Department. The Government indicated that the authorities established that that Mr. Abdullayev had been away for a business trip and that his wife and parents had been at home. No illegal action was taken against his family members. The Government assured the Special Representative that no arrest warrant had been issued against Mr. Abdullayev in this connection. The Government underlined that neither Mr. Abdullayev, nor members of his family have complained to the authorities about the incident referred to in the communication sent by the Special Representative.

597. By letter dated 28 October 2004, the Government replied to the urgent appeal sent on 3 August 2004 concerning the **Open Society Institute (OSI)**. Unfortunately, the English translation was not available in time to be examined and included in this report, and will thus be reported next year.

#### **Responses received to communications sent by the Special Representative in previous years**

598. By letter dated 18 February 2004, the Government replied to the urgent appeal sent jointly with the Special Rapporteur on 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 on 22 October 2003 concerning **Fatima Mukhadirova**. The Government referred to its previous response dated 28 November 2003 and provided additional information: It indicated that, on 12 February 2004, the Shayhantohur District Court found Fatima Mukhadirova guilty of offences under articles 159.3 (a) and (b), 244-1.3 (a) and 59 of the Criminal Code, for continuing her unlawful activities in a religious extremist organization with a view to undermining the constitutional foundation of Uzbek society. The court sentenced her to deprivation of liberty for six years, partly incorporating a suspended sentence decided by the same court on 5 November 2001. The Government reported that Fatima Mukhadirova lodged an appeal with the Tashkent City Court against this ruling, and that a consideration of this appeal was scheduled for 24 February 2004.

#### **Observations**

599. The Special Representative thanks the Government of Uzbekistan for responding to most of her communications, which attests to its willingness to cooperate with her mandate. She refers to her main report to the Commission on Human Rights (E/CN.4/2005/101) for a detailed analysis of the trends in the situation of human rights defenders in Uzbekistan, and for her observations to these trends. She encourages the Government to review favourably her request,

first sent on 24 May 2001 and reiterated most recently on 2 December 2004, for an invitation to conduct an official visit to the country.

## Venezuela

### Comunicaciones enviadas

600. El 25 de mayo de 2004, la Representante Especial envió un llamamiento urgente en relación con **Liliana Ortega**, presidenta del Comité de Familiares de Víctimas del 27 de Febrero (COFAVIC). Junto con otras organizaciones nacionales e internacionales, el COFAVIC habría pedido públicamente que se llevaran a cabo investigaciones independientes e imparciales sobre presuntas violaciones de derechos humanos que se habrían cometido entre el 27 de febrero y 4 de marzo de 2004. Según los informes, al menos 14 personas habrían muerto y más de 200 habrían resultado heridas durante enfrentamientos entre manifestantes de oposición y las fuerzas de seguridad. Además, se informa que el 12 de mayo de 2004, un individuo no identificado habría colocando folletos en la entrada principal de la sede de la organización COFAVIC en Caracas. Los folletos habrían contenido amenazas de muerte y frases insultantes, así como una caricatura de Liliana Ortega diciendo: "A mí me pagan para que defienda los derechos humanos de los malandros de la oposición". Se informa además que ese mismo día, COFAVIC habría recibido una serie de llamadas telefónicas de individuos no identificados que habrían pedido información sobre Liliana Ortega y el COFAVIC. Se teme que las amenazas estén relacionadas con el trabajo dentro del área de derechos humanos de Liliana Ortega y COFAVIC y en particular con la documentación y denuncia de los malos tratos por parte de miembros de la policía y de las fuerzas de seguridad durante las violencias políticas en Venezuela en febrero y marzo de 2004. El caso de Liliana Ortega ya fue sujeto de un llamamiento urgente enviado conjuntamente por la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial el 25 de abril de 2002.

### Observaciones

601. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication.

## Viet Nam

### Communications sent

602. On 6 January 2004, 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 question of torture, sent a follow-up urgent appeal concerning **Dr. Nguyen Dan Que**, who was reportedly arrested on 17 March 2003, four days after he allegedly issued a statement alleging the lack of respect for the right to freedom of information in Vietnam. According to new information received, Dr. Nguyen Dan Que was accused of espionage but the formal charges against him and the date of a possible trial are not known. He is reported to have been denied access to his legal representatives and relatives since his arrest. He is also reported

to be suffering from a blood pressure condition, a bleeding peptic ulcer and kidney stones. Medication which he needs for his serious condition has reportedly been provided to the detention centre where he is held, but it is not known whether this has in fact been given to him. In view of his reported incommunicado detention, fears have been expressed that he may be at risk of torture or other forms of ill-treatment. Concern has also been expressed for his physical integrity if he does not receive prompt and adequate medical treatment

603. On 22 April 2004, the 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 situation of human rights and fundamental freedoms of indigenous people and the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent a letter of allegation relating to the situation of the **Degar tribe** (Montagnards) in some areas of the Vietnamese central highlands. According to the information received, on 10 and 11 April on the occasion of Easter celebrations, between 10,000 and 30,000 Christian members of the Degar tribe reportedly gathered in the cities of Buon Ma Tuor, Kontum, Dalat, Phuoc Long and Plei Ku as well as in other areas, to protest alleged ongoing repression against hill tribes and violations of their human rights, including their right to freedom of religion, by the authorities. The demonstrations were allegedly violently suppressed by the Vietnamese authorities, reportedly causing an as-yet-undetermined number of casualties. Although it seems that exact figures of the casualties are difficult to assess, it is reported that the authorities are still barring access to the area by independent observers and have imposed a news blackout on hospital personnel, some reports mention that at least 10 Montagnards were killed, including one from a gunshot wound in the head and others from beatings, and hundreds were allegedly wounded. It is alleged that security forces, supported by men in civilian clothes armed with metal bars, shovels, clubs with nails attached to them, machetes and chains, confronted Montagnard protesters in the area around Buon Ma Tuor, the capital of the Dak Lak province, on the morning of 10 April, seeking to prevent them from accessing main cities where protests were to be organized. The protesters who were reportedly not armed are said to have attempted to defend themselves by throwing stones at the security forces. Further reports indicate that hundreds of Montagnards have fled their villages and have gone into hiding. The situation of Montagnard or Degar peoples has already been addressed by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people in his communications with the Government in 2002. It is reported that, over the last decades, indigenous Montagnards have been facing military operations during which arrests, beatings and extrajudicial executions at the hands of Vietnamese security forces were alleged to have occurred. The destruction of several churches has also been reported.

604. On 21 July 2004, the Special Representative sent a follow-up urgent appeal concerning **Dr. Nguyen Dan Que**, human rights defender. According to information received on 13 March 2003, Dr. Nguyen Dan Que reportedly issued a statement alleging that there was no freedom of expression in Vietnam. On 17 March 2003 he was allegedly arrested outside his home in Ho Chi Minh City and held incommunicado for significant periods during his detention. According to new information received, on 19 July 2004 Dr. Nguyen Dan Que was brought to trial in Ho Chi Minh City where he reportedly spent 16 months in detention. Reports indicate that he was charged with “abusing democratic rights to jeopardize the interests of the State”. It has also been alleged that Dr. Nguyen Dan Que has been denied access to legal consultation and that his family have not been given a formal charge sheet detailing the accusations against him. In view of these

reports it is feared that he may be deprived of his right to legal representation during his trial. Concern has also been expressed for his physical integrity as he is reported to be suffering from high blood pressure, kidney stones and a bleeding ulcer. Further concern is expressed that Dr. Nguyen Dan Que may have been arrested and detained in an attempt to hinder his human rights activities.

605. On 7 September 2004, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning **Rev. Nguyen Hong Quang**, aged 45, Vice President and General Secretary of the Mennonite Church in Vietnam. He was reportedly arrested on 8 June 2004 on the outskirts of Ho Chi Minh City and taken to the jail at the District 2 Public Security Police Station. Reports indicate that police ransacked his home and office and informed his colleagues that they were charging him with “inciting others to oppose an officer carrying out his official duty”. Police also confiscated four computers and numerous books and papers, including his legal files on human rights cases. Rev. Nguyen Hong Quang has defended land-rights cases of impoverished farmers from the provinces, spoken out against the arrests of religious and political dissidents, and drawn attention to the situation of minority Christian churches in Vietnam. On 18 May 2004, he made public a report entitled “Violations of the law by public security officers of District 2 and Ho Chi Minh City in the forcible detention of the four Mennonite evangelists”.

606. On 25 November 2004, the Special Representative, together with the Special Rapporteur on freedom of religion or belief, sent a follow-up letter of allegation concerning the Mennonite Church, and in particular Rev. Nguyen Hong Quang. According to new information received, , after a trial that took only four hours and was marred by some procedural shortcomings, Nguyen Hong Quang was convicted to three years of imprisonment on 12 November 2004 by the people’s court of Ho Chi Minh City in connection with his religious convictions and related activities for “resisting persons doing official duty”. It is also reported that several of his collaborators, Pham Ngoc Thach, Le Thi Hong Lien, Nguyen Van Phuong, Nguyen Huu Nghia and Nguyen Thanh Nhan received sentences of between 9 and 36 months for the same offense.

#### **Communications received**

607. By letter dated 2 April 2004, the Government replied to the urgent appeal sent on 6 January 2004 concerning **Dr. Dan Que Nguyen**. The Government underlined that freedom of expression and freedom of information are enshrined in domestic law, and that torture and any other form of inhumane treatment and punishments are strictly forbidden. It stated that these rights are guaranteed and strictly observed in practice. In its reply, the Government stated that the information and allegations contained in the communication sent by the Special Representative are unfounded. It indicated that Dr. Que was arrested for having committed acts in violation of article 80 of the Criminal Code of Vietnam, and he will be brought to trial when investigation procedures have been completed. The Government stated that the right of the defendant to a fair proceeding before the court shall be guaranteed in strict accordance with the law. Finally, the Government assured the Special Representative and special rapporteurs that Dr. Que was in good health.

608. By letter dated 14 May 2004, the Government replied to a letter of allegation sent on 22 April 2004. The Government stated that the allegations and information contained in the

communication were unfounded. It reported that, on 10 and 11 April 2004, some extremist elements in Dak Lak and Gia Lai provinces induced, deceived and forced local people to carry out demonstrations. This conduct was instigated and instructed from outside, especially from the Montagnard Foundation. The reply indicated that the extremists committed acts aimed at causing public disorder, dividing people of the Central Highlands, damaging Vietnam's great national unity and undermining its territorial integrity. It reported that they had used dangerous weapons, destroyed public property, attacked some commune headquarters, and captured local officials. The Government stated that, in view of such violent acts, the law-enforcement forces and the people had to take defensive action. It mentioned that measures have been taken to stabilize the situation and that only the instigators, leaders and those who committed acts against public officers on duty were been held in custody by the local government. In its reply, the Government also reported that there was no repression of Protestants, and that Protestants in the Central Highland enjoy favourable conditions for religious practices.

609. By letter dated 18 August 2004, the Government replied to the urgent appeal sent on 21 July 2004. The Government reported that, on 29 July 2004, the People's Court of Ho Chi Minh City held an open criminal trial in first instance for **Dr. Nguyen Dan Que**. It stated that the court examined the case in strict accordance with the law and found the defendant guilty. Dr. Que was sentenced to two years and six months of imprisonment under article 258 of the Penal Code, based on his abusive use of democratic freedoms to infringe upon the interests of the State and his violation of the rights and interests of organizations and citizens.

610. By letter dated 14 October 2004, the Government replied to the urgent appeal sent on 7 September 2004 concerning **Nguyen Hong Quang**. The Government indicated that the information and allegations referred to in the communication sent by the Special Representative were unfounded. It referred to several acts in violation of the law carried out by Mr. Quang. In particular, the Government stated that, on 2 March 2004, Mr. Quang and other individuals chased up and violently assaulted two youngsters, tried to assassinate them, took away their motorbikes, caused public chaos and fought violently against the police. The Government indicated that, on 8 June 2004, the police arrested Mr. Quang on the charge of "fighting against on-duty public officers", and that four other persons already had been charged in connection with the incident.

611. By letter dated 6 December 2004, the Government replied to the letter of allegation sent on 25 November 2004. The Government reiterated its reply dated 14 October 2004, and referred to several violations of the law carried out by **Nguyen Hong Quang**. It confirmed that, on 12 November 2004, the People's Court of Ho Chi Minh City convicted Mr. Quang to three years imprisonment. The Government reported that he had been charged with "assaulting on-duty public officers" and that he was convicted in accordance with article 257 of the Penal Code. According to the reply, the trial was conducted in full and strict observance of due process.

612. By letter dated 31 January 2005, the Government replied to the case of **Nguyen Hong Quang**. The Government informed the Special Representative that, on 31 January 2005, the Office of the President announced the President's decision to grant special amnesty for 8,428 inmates, including Mr. Quang. It stated that the decision was based on a humanitarian and lenient policy towards those who have showed sincere attitude of repentance and made remarkable progress while serving their imprisonment sentence.

### **Observations**

613. The Special Representative thanks the Government for its numerous replies. She welcomes the release of **Nguyen Hong Quang**. She expresses her serious concern about the alleged arrests of human rights defenders in connection with their public statements. She remains concerned about the reports of arrests, assaults and killings of demonstrators.

### **Zambia**

#### **Communications sent**

614. On 23 February 2004, the Special Representative sent an urgent appeal concerning **Sara Longwe**, a member of United Nations Coalition of Non-Governmental Organizations (CONGO) and a human rights defender on gender issues in Zambia, her husband **Peter Clarke**, a journalist, and their daughter. According to the information received, on 5 January 2004, the Minister of Home Affairs reportedly issued a deportation order requiring Peter Clarke, a British citizen, to leave the country within 24 hours. This deportation order is reportedly connected to an article he had written in his weekly satirical column in *The Post* newspaper. It was already the subject of an urgent appeal by the Special Rapporteur on the right to freedom of opinion and expression on 3 February 2003. According to new information received, on 12 February 2004, Peter Clarke was allegedly arrested and detained for assaulting a police officer at the Chelston police office in Lusaka. He was reportedly released on bail the following day. On 16 February 2003, he appeared in court on charges of assault and disorderly conduct. His next hearing is reportedly due to take place in March 2004. According to additional information received, on 12 February 2004, the eldest daughter of Sara Longwe and Peter Clarke was reportedly kidnapped while driving her mother's car. She was reportedly stopped by armed assailants who pointed a gun at her, questioning her as to her mother's whereabouts. They then reportedly hijacked the car, placed Sara Longwe's daughter on the car floor behind the driver's seat and drove away, asking for money and threatening to kill her. The hijackers allegedly drove for two hours before dumping her on a small dirt road in Chamba Valley. During the incident, the hijackers reportedly claimed to be acting under someone else's orders and stopped to pick up an additional person who was heard saying : "You've got the child." It is believed that the assailants had intended to attack either Sara Longwe or Peter Clarke. Fear has been expressed that the alleged harassment of Peter Clarke and of his daughter may be connected to the human rights activities of Sara Longwe and, in particular ,her campaign work against gender-oppressive policies in Zambia.

#### **Communications received**

615. By letter dated 25 February 2004, the Government replied to the urgent appeal sent on 23 February 2004. The Government stated that Mr. Clarke and his family have never been tortured. It reported that Mr. Clarke was to be deported after he insulted the president as well as the people of Zambia. The Government indicated that he had appealed to the High Court, and the deportation order had not been implemented at the time, pending the outcome of the court's decision. As for the kidnapping of Mr. Clarke's daughter, the Government stated that Mr. Clarke went to report the incident to the police. While at the police station, he became unruly and assaulted a police officer. The case was pending at the time, and Mr. Clarke had been released on

bail. The Government informed that Mr. Clarke's daughter had been found and that there was an investigation ongoing at the time.

616. By letter dated 25 March 2004, the Government provided additional information with regards to the urgent appeal sent on 23 February 2004 concerning **Sara Longwe, Peter Clarke**, and their daughter. The Government referred to its preliminary reply dated 25 February 2004. It informed that the Government could not comment upon the merits of Mr. Clarke's deportation and assault cases, as these were being considered before courts. The Government stated that Mr. Clarke was receiving a fair trial under national laws. As to the alleged kidnapping of Mr. Clarke's daughter, the Government reported that the matter received the full attention of the police, and that investigations into the matter were being carried out. According to the Government, the concerns that the alleged harassment of Mr. Clarke and his daughter may be connected to Sara Longwe's human rights activities were unfounded and unjustified. The Government stated that it was committed to the advancement of human rights of women, and that the Government worked closely together with civil society for the promotion and protection of the human rights of women.

### **Observations**

617. The Special Representative thanks the Government for its response to her communication. She welcomes steps taken by the Government in investigating the kidnapping of the Clarke's daughter and the release of Peter Clarke. The Special Representative will monitor the outcome of the various investigations and invites the Government to keep her informed of the developments.

### **Zimbabwe**

#### **Communications sent**

618. On 13 January 2004, 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 concerning the situation of **Douglas Togarasei Mwonyora**, a lawyer and human rights defender, and a spokesperson for the National Constitutional Assembly (NCA), a network of NGOs which was subject to an urgent action by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Chairperson-Rapporteur of the Working Group on Arbitrary Detention and Special Representative of the Secretary-General on human rights defenders on 27 October 2003. According to the information received, the police allegedly arrested Douglas Togarasei Mwonyora in Harare on 15 December, claiming that Mwonyora had insulted President Mugabe in a radio interview, reportedly with statements calling Mugabe's withdrawal from the Commonwealth "foolish bravery". Douglas Togarasei Mwonyora has reportedly been charged with contravening section 16 (2) of the Public Order and Security Act (POSA). It is reported that Mwonyora was remanded to custody until 14 January 2004 and was granted bail in the amount of Z\$ 30,000. Fear has been expressed that Douglas Togarasei Mwonyora may have been targeted in connection with his human rights activities.

619. On 30 April 2004, 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 concerning the situation of **Roderick Fayayo**, Secretary General of the University of

Zimbabwe Union, **Philani Zamchiya**, president of the Zimbabwe National Students Union (ZINASU), and members of ZINASU **Tafadzwa Mugabe, Simbarashe Machiridza, Obert Mbuzini and Pasttense Tarondwa**. According to the information received, members of the Association of University Teachers (AUT) had been involved in a pay dispute with the Ministry of Education since late 2002 which resulted in ongoing strike action by lecturers and other members of staff at the University of Zimbabwe. It was reported that, as a result of the strike action, students had not been receiving their subsistence grants or loans. On 15 March 2004, in order to protest against the continued deadlock in negotiations between AUT and the Ministry of Education and the effect this has had on their studies, students of the University of Zimbabwe reportedly held a peaceful demonstration authorized by the university's administration. During the demonstration, university security guards reportedly surrounded the student leaders to prevent them from accessing the office of the vice-chancellor. Allegedly, when the students refused to comply, the security guards used tear gas to disperse the demonstration and arrested Roderick Fayayo, Philani Zamchiya, and Tafadzwa Mugabe, Simbarashe Machiridza, Obert Mbuzini and Pasttense Tarondwa. They were reportedly brought to Avondale police station where they were charged with public violence under common law and could face a possible prison sentence. It is reported that their trial will be held on 9 June 2004. Concern has been expressed that members of ZINASU have been targeted for their participation in a demonstration to protest against the ongoing strike and to defend the rights of the students of the University of Zimbabwe.

620. On 12 May 2004, 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 question of torture, sent a letter of allegation concerning the situation of **Tinashe Lukas Chimedza**, former Secretary General of ZINASU, a youth and social rights activist and the Zimbabwe nominee to the International Youth Parliament. According to the information received, Tinashe Chimedza had been invited to speak at an Education Rights Forum at the University of Zimbabwe scheduled for 22 April 2004. It is reported that, before the commencement of the event, heavily armed police surrounded the hall and allegedly arrested Tinashe Chimedza upon his arrival. The police allegedly took him to a room where they punched and beat him with sticks before taking him to Marlborough police station. It is reported that, on the insistence of his lawyers Otto Saki from Zimbabwe Lawyers for Human Rights (ZLHR) and Jacob Mafume from Human Rights Forum, Tinashe Chimedza, who was allegedly unconscious and bleeding heavily from the mouth, was taken from the police station to hospital, where he remained under police surveillance. According to the information received, Tinashe Chimedza was detained based on an arrest warrant issued against him in 2001 for having committed acts of violence during a student demonstration when he was Secretary General of ZINASU. He was reportedly granted bail on 29 April 2004. Concern is expressed that Tinashe Chimedza is being targeted for his work as a student's rights advocate.

621. On 1 September 2004, the Special Representative sent an urgent appeal concerning a number of provision contains in the **new draft Non-Governmental Organizations (NGO) Bill 2004**. The Special Representative had sent an allegation letter on 6 November 2003 expressing concern about previous NGO law, the Private Voluntary Organizations (PVO) Act of 1967. According to the information received, the draft NGO Bill to repeal the PVO Act was publicized in Zimbabwe in *Gazette* No. 68 on 20 August 2004. The draft bill requires that all NGOs and Church-based organizations in Zimbabwe register with a newly established "Non-Governmental

Organizations Council". Section 9 of the bill reportedly criminalizes any organization operating without being registered and imposes criminal sanctions of up to five months imprisonment to the board member of such an NGO. It is reported that NGOs already registered under the existing PVO Act will be granted a one-year grace period before being required to re-register, whereas NGOs not required to register under the PVO Act will be deemed illegal until the NGO Council accepts their registration. Concerns have also been expressed with regards to the independence and wide-ranging powers of the registration body. In particular, it is reported that the NGO Council will be composed of five NGO representatives and nine government representatives, all appointed by the Minister of Public Service, Labour and Social Welfare. Additionally, section 4 of the draft bill reportedly grants the Council the authority to "determine every application for registration ... , conduct investigations into the administration and activities of NGOs ... , take disciplinary actions ... , [and] formulate a code of conduct for NGOs". Concern has been expressed that this may grant government authorities overly broad control over the creation and authorized activities of NGOs. Concerns have also been expressed with regards to the restrictive provisions prohibiting access to funding for local NGOs working on human rights and governance issues, in particular those included in section 17, which reportedly provides that, "No local NGO shall receive foreign funding or donation to carry out activities involving or including acts of governance". Further concern is expressed with regards to the prohibition for international NGOs to carry out human rights work. In particular, it is reported that section 9 of the bill states that "No foreign NGO may be registered if its sole or principal objects involve or include any issues of governance", with governance defined as including the "protection and promotion of human rights". While recognizing that it is within the ambit of States' authorities to regulate the operation of NGOs, I am gravely concerned that the framework laid out in the draft NGO Bill may result in the prohibition of legitimate activities for the defence of human rights in Zimbabwe and lead to the criminalization and closure of many existing human rights organizations. I would like to draw the attention of the Government to the Declaration on Human Rights Defenders, adopted by consensus by the General Assembly on 9 December 1998, especially its article 5(b), which provides that "everyone has the right, individually or in association with others, to form, join and participate in non governmental organizations, associations or groups", and article 6(c), which provides that "everyone has the right, individually or in association with others to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, though these and other appropriate means, to draw public attention to those matters".

622. On 29 September 2004, 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 concerning **52 women**, members of **Women of Zimbabwe Arise** (Woza), who were reportedly arrested during a protest march against new legislation which would allegedly ban foreign human rights groups and bar local advocacy groups from campaigning on "issues of governance" and allow restrictions to human rights organizations work. The women reportedly walked 250 miles from Bulawayo and were stopped just 19 miles from Harare, their destination. It is reported that the marchers, and four men who volunteered to protect them as they slept by the roadside en route, were taken to Norton police station. The police reportedly accused them of staging an illegal protest and that, although they had claimed initially that the march was organized to raise fund for their church, they were found carrying placards with political messages.

### **Communications received**

623. By letter dated 21 May 2004, the Government replied to the urgent appeal sent on 30 April 2004. The Government informed the Special Representative that the student demonstration on 15 March 2004, in which more than 800 students participated, had not been sanctioned by the authorities as required by the Public Order and Security Act and the University of Zimbabwe Ordinance 30. It stated that university guards had dispersed the students and arrested 10 of them, including **Roderick Fayayo, Simbarashe Machiridza, Obert Mbuzini and Pasttense Tarondwa**. According to the Government's reply, the police were called to the scene, but did not intervene. The Government reported that, in the course of the demonstration, someone threw a tear canister at the students and that the police were not involved in the incident. It rejected the allegation that the police had charged the students.

624. By letter dated 5 August 2004, the Government replied to the letter of allegation sent on 12 May 2004. The Government reported to the Special Representative that, on 22 April 2004, the police were made aware that students at the University of Zimbabwe were preparing to hold an unsanctioned meeting and that **Tinashe Lukas Chimedza** was going to speak at the meeting. Four police officers were deployed to monitor the situation. The Government stated that one of the police officers asked Mr. Chimedza to identify himself, and that he responded by punching the police officer, who then staggered backwards. According to the Government's reply, as a result members of the public started to assault Mr. Chimedza and that two police officers had a difficult time trying to restrain the assault against Mr. Chimedza. According to the Government's account, they finally managed to take Mr. Chimedza, who had been injured, to the hospital. The Government underlined that he received medical attention under police guard. The Government indicated that at that point, he had been put under arrest for assaulting a police officer and for malicious injury to property and vandalism dating back to 2001. According to the reply, on 23 April 2004, Mr. Chimedza was charged with the assault. He pleaded guilty and paid a fine. The Government reported that the cases, based on incidents dating back to 2001, are pending before the courts.

625. By letter dated 2 September 2004, the Government responded to the urgent appeal sent by the Special Representative on 1 September 2004. The Government reaffirmed its responsibility to legislate in the national interest. It stated that the **Non-Governmental Organizations (NGO) Bill 2004** is intended to ensure that social protection is guaranteed and that it does not remain in the hands of dubious players who are not accountable. The Government argued that foreign-funded organizations and foreign organizations have proven to be a threat to national security when it comes to dealings with governance issues. The Government asserted that it will never tolerate that foreign donors fund instability and chaos in Zimbabwe, non-governmental organizations or individuals. The Government explained that the NGO Bill 2004 aimed at hindering foreign donors employing local puppets or others to champion foreign values or governance issues, most of which espouse the policies of Governments which are anti-Zimbabwe, under cover of "human rights" and "democracy". The Government commented that, as far as unregistered organizations are concerned, these are already illegal under the Private Voluntary Organizations Act.

### **Responses received to communications sent by the Special Representative in previous years**

626. By letter dated 19 February 2004, the Government provided replies to several of the communications sent by the Special Representative in 2003. In their content, the replies are identical to some replies the Government provided last year and which were included in the addendum to the 2004 Commission report (E/CN.4/2004/94/Add.3).

#### **Responses received to communications sent by the Special Representative in previous years**

627. By letter dated 11 March 2004, the Government provided a response to the urgent appeal sent on 17 October 2003 concerning **Beatrice Mtetwa**. The Government also sent a reply dated 12 November 2003 to this communication. Regarding the alleged altercation with a police officer, the Government informed the Special Representative that a police officer had been charged with assault, based on allegations that the police officer assaulted Mrs. Mtetwa with open hands and that the case is pending before courts. The Government further referred to various communications sent by the Special Representative, including allegations of complicity and impunity on the part of the police. In this connection, the Government pointed to several other cases where alleged violations of human rights by police officers are fully investigated and prosecuted.

#### **Observations**

628. The Special Representative thanks the Government for its replies. She remains gravely concerned at the reported arrests of human rights defenders. She reaffirms her grave concern that, while recognizing that it is within the ambit of States' authorities to regulate the operation of NGOs, the framework laid out in the Non-Governmental Organizations Bill 2004 may result in the prohibition of legitimate activities for the defence of human rights in Zimbabwe and lead to the criminalization and closure of many existing human rights organizations.

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