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PROMOTION AND PROTECTION OF HUMAN RIGHTS

HUMAN RIGHTS DEFENDERS

**Report submitted by Hina Jilani, Special Representative of the Secretary-General on the
situation of human rights defenders**

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 sixtieth session (E/CN.4/2004/94). For technical reasons the addendum has not been edited by the United Nations editors or translated by the United Nations translation services. The document is thus published in the several languages used by the Special Representative in her communications with Governments and may contain editing errors.

3. The cases raised by the Special Representative in this addendum relate to cases reported to her between 1 December 2002 and 30 November 2003. In a very small number of instances, some cases reported in early December 2003 have also been included in the report. The addendum contains summaries of responses received from Governments and, where necessary, translated up to and including 31 January 2004. Most of the responses by Governments refer to cases raised by the Special Representative during the period December 2002 to November 2003; 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.4/2002/106 and E/CN.4/2003/104/Add.1, 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.

Afghanistan

Communications sent

5. On 9 December 2003, the Special Representative sent a letter of allegation regarding the reported killing of **Bettina Goislard**, a staff member of the Office of the United Nations High Commissioner for Refugees (UNHCR), who had been working for UNHCR in Afghanistan since June 2002. According to the information received, on 16 November 2003, Bettina Goislard was reportedly travelling in a clearly marked UNHCR vehicle through the centre of Ghazni city, when two men riding a motorcycle allegedly shot at the vehicle, killing her and wounding her driver. While the Special Representative welcomes the report that the alleged assailants have been arrested, she notes that as result of the attack, on 17 November 2003, UNCHR temporarily suspended its activities in the province, and confined all staff members to quarters and offices,

and that road missions were suspended throughout the country. The Special Representative is concerned that the alleged attacks may represent an emerging pattern of humanitarian workers being killed in Afghanistan.

Observations

6. The Special Representative regrets that at the time of the finalization of her report no response to her communication had been received.

Algeria

Communications envoyées

7. Le 16 juillet 2003, la Représentante spéciale a envoyé un appel urgent concernant l'arrestation de plusieurs mères de disparus le 9 juillet 2003 à Oran lors du rassemblement hebdomadaire des familles de disparus devant le palais de justice. Selon les informations reçues, vers 10 h 45, Mme **Boutaiba Setti**, représentante du Comité SOS disparus de la wilaya d'Oran, aurait été malmenée et emmenée de force dans une voiture par un officier en civil appartenant aux services de sécurité, après avoir été interviewée par un journaliste du quotidien algérien « El Rai ». Mme **Bouguetaya Yakout**, épouse Acem, sa fille, Mme **Boussekak Yamina**, et **trois autres mères** de disparus auraient également été arrêtées et emmenées au commissariat du 2^e arrondissement d'Oran puis transférées au commissariat central. Elles auraient été relâchées aux alentours de 19 heures, et convoquées le 12 juillet au commissariat central. Elles devraient être présentées au parquet pour « trouble à l'ordre public ».

8. Le 2 octobre 2003, 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 et autres peines ou traitements cruels, inhumains ou dégradants, a envoyé un appel urgent concernant **Salah-Eddine Sidhoum**, chirurgien et défenseur des droits de l'homme. Le docteur Sidhoum aurait été arrêté une première fois le 20 juin 1992 et détenu pendant dix jours après avoir dénoncé les supposées violations des franchises hospitalières par des gendarmes. En septembre 1994, dans une lettre ouverte au Président, il aurait publiquement dénoncé de supposées pratiques de torture, d'exécutions extrajudiciaires et de disparitions forcées. Par la suite, il aurait été victime d'une campagne de diffamation l'accusant d'appartenir à un réseau de soutien à des groupes terroristes. Le 18 décembre 1994, le lendemain de la diffusion sur Canal Plus d'un documentaire de la BBC dans lequel le docteur Sidhoum aurait dénoncé de graves violations des droits de l'homme par les autorités, trois hommes armés, supposément des forces de sécurité, seraient arrivés à son domicile d'El Mouradia et auraient questionné sa famille sur ses mouvements. Les hommes auraient menacé sa tante, Aktouf Sakina, ainsi que de revenir tuer Sidhoum et de détruire sa maison. A la suite de ces événements, le docteur Sidhoum aurait décidé de vivre dans la clandestinité. Le 10 mars 1997, il aurait été condamné par contumace à 20 ans de réclusion pour activités terroristes selon l'article 87 du Code pénal. Le 11 janvier 2002, il aurait publié un rapport sur des présumées violations des droits de l'homme par les autorités. Le 15 décembre, deux hommes en civil se seraient présentés à son domicile avec un mandat d'arrêt à son encontre et auraient exigé qu'en son absence sa femme se présente à sa place au commissariat d'El Madania, ce qu'elle aurait refusé de faire. Le 29 septembre 2003, le docteur

Sidhoum aurait décidé de sortir de la clandestinité et se serait présenté au parquet d'Alger afin de faire opposition au jugement de 1997. Après que le procureur lui aurait signifié qu'il serait de nouveau entendu quelques semaines plus tard, le docteur Sidhoum aurait été arrêté et conduit à la prison de Serkadji, où il estimerait que sa vie serait moins en danger que s'il était resté en liberté jusqu'au nouveau jugement. Il aurait entamé une grève de la faim pour protester contre ses conditions de détention et aurait été placé, par mesure disciplinaire, en isolement dans une cellule de deux mètres cube, dans laquelle la lumière serait allumée en permanence.

9. Le 8 octobre 2003, la Représentante spéciale a envoyé un appel urgent concernant **Larbi Tahar**, Président de la section d'El Abiodh Sidi Cheikh de la Ligue algérienne des droits de l'homme (LADH), pour lequel le Rapporteur Spécial sur le droit à la liberté d'opinion et d'expression avait envoyé une lettre d'allégation le 26 juillet 2002. Le 4 octobre 2003, Larbi Tahar aurait reçu une convocation de la part d'un juge d'instruction lui signifiant qu'il serait accusé « d'attroupement armé et de désobéissance civile ». Le 5 octobre, après qu'il se serait présenté à cette convocation, Larbi Tahar aurait été arrêté et conduit à la prison d'El Abiodh Sidi Cheikh. Les accusations fondant l'arrestation de Larbi Tahar feraient suite à sa participation, le 29 septembre 2003, à un rassemblement pacifique de soutien aux membres du Syndicat national autonome des personnels d'administration publique (SNAPAP, syndicat non reconnu) en grève de la faim devant l'hôpital d'El Abiodh Sidi Cheikh. Des craintes ont été exprimées que cette arrestation pourrait viser à faire obstruction aux activités de défenseur des droits de l'homme de Larbi Tahar.

Communications reçues

10. Par lettre en date du 29 septembre 2003, le Gouvernement algérien a répondu à la communication envoyée par la Représentante spéciale le 16 juillet 2003. Le Gouvernement algérien a informé la Représentante spéciale que le rassemblement en question entravait la circulation et troublait l'ordre public. Le Gouvernement a indiqué que les forces de l'ordre avaient de ce fait invité les personnes rassemblées à évacuer la voie publique et que sept d'entre elles avaient refusé d'obtempérer. Face à ce refus, les services de police se sont vus dans l'obligation de procéder à leur interpellation et de les déferer le 12 juillet devant le procureur d'Oran. Elles ont été relâchées après leur audition. Le Gouvernement a informé la Représentante spéciale que ces personnes ont été inculpées pour encombrement de lieux destinés à la circulation en contravention à l'article 442 bis du Code pénal et convoquées devant le tribunal de police d'Oran. Elles encourraient une amende de 100 à 1000 dinars et seraient passibles sous certaines conditions d'une peine maximum de dix jours.

11. Par deux lettres datées du 14 et 21 octobre 2003, le Gouvernement a informé la Représentante spéciale que **Salah-Eddine Sidhoum** avait fait l'objet d'une information judiciaire dans le cadre d'une affaire de terrorisme. Le 23 juillet 1996, la Cour d'Alger a rendu un arrêt de mise en accusation, des chefs d'appartenance à une organisation terroriste, ainsi qu'apologie et encouragement d'actes terroristes. Le 10 mars 1997, le tribunal criminel d'Alger a rendu un jugement par contumace, par lequel Salah-Eddine Sidhoum a été condamné à 20 ans de réclusion. A partir du 29 septembre 2003, date à laquelle il s'est livré aux autorités judiciaires, il a été placé en détention provisoire, en l'attente d'un nouveau jugement. Le 16 octobre 2003, le tribunal criminel d'Alger a prononcé son acquittement et Salah-Eddine Sidhoum a été mis en liberté. Durant sa détention et suite à la décision d'entamer une grève de la faim, il avait été placé

à l'infirmerie où, d'après le Gouvernement, il aurait bénéficié d'un suivi médical spécial et de la visite quotidienne de sa famille et de ses avocats. Il aurait fait une grève de la faim suite au refus de l'administration pénitentiaire de ne pas le placer au régime général de détention tel que Salah-Eddine Sidhoum l'avait demandé en alléguant un statut de détenu d'opinion.

12. Par lettre datée du 6 novembre 2003, le Gouvernement a informé la Représentante spéciale que le 30 septembre 2003 à El Abiodh Sidi Cheikh, un groupe d'une vingtaine de personnes s'est formé sur la voie publique devant l'hôpital de la ville exigeant du directeur de l'établissement une annulation d'une mesure disciplinaire qu'il venait de prendre contre quatre employés et menaçant de destruction les locaux. Le Gouvernement a indiqué que les services de police étaient intervenus pour demander au groupe de se disperser ce qu'il a refusé de faire. Face à ce refus, la police a interpellé certains des membres du groupe qui ont été trouvés en possession d'armes blanches. L'enquête menée a permis de conclure que Larbi Tahar avait été l'instigateur de l'opération. Ce dernier a, de ce fait, fait l'objet d'une information judiciaire au cours de laquelle il a été inculpé au chef d'attroupement armé selon l'article 97 et suivants du Code pénal. L'information judiciaire est en cours.

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

13. Par lettre datée du 4 décembre 2002 le Gouvernement a répondu à l'appel urgent envoyé le 12 septembre 2002 concernant **M. Ahmed Ali Khelili**. Le Gouvernement a informé la Représentante spéciale qu'il est dans l'impossibilité de vérifier les dires énoncés dans l'appel urgent, dans la mesure où M. Ahmed Ali Khelili n'a pas alerté les services du parquet territorialement compétent sur les menaces dont il aurait été victime, ni déposé une plainte quelconque devant la justice. Le Gouvernement a également indiqué que selon la législation algérienne, une personne qui s'estime être victime d'agissements contraires à la loi, a la faculté de déposer une plainte devant le Procureur de la République ou le Doyen des juges d'instruction. Dans ce dernier cas, la victime contribue directement à la mise en mouvement de l'action publique. En l'absence de plainte déposée par celui-ci, la justice ne pouvait procéder à une enquête et dire, dans le cas d'espèce, si les allégations de M. Ahmed Ali Khelili sont fondées ou non.

Observations

14. La Représentante spéciale remercie le Gouvernement algérien pour ses réponses. Elle se félicite de l'acquittement et la libération du docteur Sidhoum. Elle demeure néanmoins préoccupée par les restrictions apparentes imposées par les autorités à la liberté de réunion et de manifestation des défenseurs des droits de l'homme. La Représentante spéciale invite le Gouvernement à prendre toutes les mesures nécessaires pour garantir le respect des droits énoncés par la Déclaration sur le droit et la responsabilité des individus, groupes et organes de la société de promouvoir et protéger les droits de l'homme et les libertés universellement reconnus.

Angola

Communications sent

15. On 6 November 2003, the Special Representative transmitted a letter of allegation regarding the arrest of **José Rasgadinho** and of **Francisco Luís dos Santos**, respectively, coordinator and member of the Boavista Ward United Residents' Commission, an organization working on housing rights, in particular on evictions and provision of alternative housing for evictees. On 3 July 2001, José Rasgadinho was allegedly arrested at his home along with seven other residents, including Francisco Luís dos Santos. They were reportedly accused of organizing violence and possessing firearms, and were released after interrogation on 4 July 2003 for lack of evidence. On 15 September 2001, José Rasgadinho was allegedly arrested again for "aggression", a crime reportedly not specified as such in the Penal Code. He was allegedly released for a second time a few days later after interrogation for lack of evidence. Furthermore, on 11 September 2003, José Rasgadinho was allegedly arrested again outside the Viana Municipal court in Luanda. His arrest warrant reportedly stated that he was suspected of arson. On 12 September 2003, the prosecutor reportedly ordered his release after interrogation. He was allegedly not released from the National Directorate of Criminal Investigation (Direcção Nacional de Investigação Criminal, DNIC) until 15 September 2003. During his detention, the police allegedly refused to allow him to receive his medication for hypertension. Concern was expressed that José Rasgadinho and Francisco Luís dos Santos may have been targeted because of their work with Boavista Ward United Residents' Commission.

Observations

16. The Special Representative notes that the Government contacted her with respect to this case and welcomes its willingness to cooperate. The Government has pledged to provide her with information on the case, which she hopes to receive shortly. The Special Representative also wishes to thank the Government for extending an invitation to conduct an official visit to Angola.

Argentina

Comunicaciones enviadas

17. El 4 de febrero de 2003, la Representante Especial envió un llamamiento urgente en relación con la situación de **Eduardo Mondino**, Defensor del Pueblo de la Argentina y Presidente de la Federación Iberoamericana del Ombudsman. Según la información recibida, el Sr. Mondino habría sido víctima de amenazas e intimidaciones anónimas desde octubre de 2002. Habría recibido diversas llamadas con amenazas a su teléfono particular y su teléfono móvil, así como diversas cartas con palabras recortadas de diarios y revistas amenazándolo de muerte. El Sr. Mondino habría denunciado estas amenazas ante la autoridad judicial.

18. El 6 de noviembre de 2003, la Representante Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias y el Relator Especial sobre la cuestión de la tortura en relación con las nuevas amenazas de muerte que **María Dolores Gómez**, defensora oficial en el Departamento judicial de San Isidro, provincia de Buenos Aires, seguiría recibiendo, situación ya llevada a la atención del Gobierno en una carta de fecha 11 de septiembre de 2002, a la cual el Gobierno respondió por carta de fecha 4 de octubre de 2002. El 26 de octubre de 2003 el Juzgado de San Isidro habría sido

evacuado tras una amenaza de bomba efectuada a través de una llamada anónima. En dicha llamada se habría hecho mención a María Dolores Gómez y **Fernando Maroto**, un juez que habría sido igualmente amenazado por sus denuncias de abusos contra personas privadas de libertad. Las autoridades penitenciarias habrían atribuido la llamada telefónica a un preso que también habría denunciado varias veces violaciones de los derechos humanos de los detenidos. En repetidas ocasiones, algunos presos se habrían quejado de haberse visto obligados, bajo chantaje, a proferir amenazas contra María Dolores Gómez. La Comisión Interamericana de Derechos Humanos (CIDH) habría solicitado al Gobierno de la Argentina medidas cautelares para proteger la vida e integridad de María Dolores Gómez. La solicitud de medidas cautelares se habría extendido hasta julio de 2003. Se alegó que a pesar de que se han tomado algunas medidas de seguridad, no se han llevado a cabo investigaciones adecuadas. Otra petición habría sido recientemente presentada formalmente ante la CIDH.

Alegaciones

19. La Representante Especial envió una carta de alegación sobre la situación de **Estela de Carlotto**, Presidenta de la **Asociación de las Abuelas de la Plaza de Mayo** y de la **Comisión Provincial por la Memoria de Buenos Aires**. Según informaciones proporcionadas el 20 de septiembre de 2002 a las 03.00, unos desconocidos habrían baleado la casa de Estela de Carlotto, causando daños en la fachada e interior de la vivienda. El presunto atentado habría ocurrido algunos días después de que Elena Carlotto hubiera presentado a la Corte Suprema un documento donde denunciaba presuntos abusos y prácticas de terror utilizados por algunos policías bonarenses.

20. La Representante Especial y la Relatora Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias fueron informadas sobre la presunta ejecución de dos jóvenes activistas sociales el 26 de junio de 2002 en las cercanías del puente Pueyrredón, que separa la ciudad de Avellanada de la Capital Federal. **Darío Santillán**, de 21 años, y **Maximiliano Kosteki**, de 25 años, habrían estado participando en una marcha convocada y dirigida por un grupo de organizaciones de trabajadores desocupados que se habrían organizado para reclamar el respeto de sus derechos económicos y sociales. Según las informaciones proporcionadas, ambos activistas murieron porque agentes de las fuerzas policiales les habrían disparado. Organizaciones de derechos humanos habrían documentado los eventos que condujeron a la muerte de ambos activistas a través de filmaciones realizadas el día de los acontecimientos. Según la información recibida, las investigaciones judiciales de la ejecución de los activistas se realizarían en un clima de intimidación y amenazas a testigos, abogados y organizaciones que actúan en defensa de las víctimas. En particular se informó de que **Claudio Pandolfi**, abogado de la **Coordinadora contra la Represión Policial e Institucional**, y uno de los fotógrafos independientes que habría logrado obtener imágenes del asesinato de Darío Santillán habrían recibido amenazas para que abandonen el proceso, situación por la que la Representante Especial envió un llamamiento urgente juntamente con otros expertos independientes el 4 de julio de 2002. Se alega que algunas de las llamadas anónimas realizadas para amenazar a estas dos personas habrían emanado de la Dirección de Seguridad de la provincia de Buenos Aires.

Comunicaciones recibidas

21. El 17 de diciembre de 2002, el Gobierno de la Argentina entregó una comunicación a la Representante Especial, respondiendo al llamamiento urgente que ésta había enviado el 24 de septiembre de 2002 en relación con las agresiones sufridas por **Estela Carlotto**. El Gobierno informó de que al tomar conocimiento de las agresiones, el Ministro de la Seguridad de la provincia de Buenos Aires, Juan Pablo Cafiero, junto con personal de su Ministerio, se hizo presente en el domicilio de la Sra. Carlotto, por expreso pedido de la víctima. Constituidos en el lugar, dieron inmediato aviso a la Fiscal de turno, Virginia Bravo, quien procedió a instruir la correspondiente investigación penal, con el auxilio de la policía científica y otros expertos en la materia. Asimismo, en relación con presente caso, la Cancillería argentina emitió un comunicado de prensa en el que expresa que ha dispuesto de inmediato la puesta en marcha de los mecanismos de protección establecidos en el ámbito interno, de conformidad con los procedimientos establecidos en la normativa internacional relativa a la defensa y promoción de los derechos humanos. En tal sentido, la Cancillería ha solicitado a las autoridades competentes información sobre los procedimientos adaptados y toda medida que se haya dispuesto para proteger la integridad de la Presidenta de la Asociación de las Abuelas de la Plaza de Mayo.

Seguimiento de comunicaciones transmitidas previamente:

22. Por carta fechada el 17 de diciembre de 2002, el Gobierno proporcionó información sobre el llamamiento urgente enviado por la Representante Especial junto con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias el 24 de septiembre de 2002 en relación con el caso de **Estela Carlotto**. El Gobierno informó de que se adelanta una investigación penal, la cual se encontraría en etapa de instrucción. Asimismo informó sobre la activación de los mecanismos de protección de conformidad con los procedimientos establecidos en la normativa internacional relativa a la defensa y promoción de los derechos humanos.

Observaciones

23. La Representante Especial quisiera agradecer al Gobierno la respuesta facilitada y la acción tomada por las autoridades. Lamenta no haber recibido respuestas a las otras tres comunicaciones transmitidas este año.

Armenia

Communication sent

24. On 17 March 2003, 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 organization Helsinki Citizens Assembly and its coordinator in Vanadzor, Mr. Arthur Sakunts. In the early morning of Friday, 14 March 2003, the premises of the Vanadzor office of the "Helsinki Citizens' Assembly" (HCAV) were allegedly set on fire. It is alleged that unknown individuals broke a window of the front door and destroyed the main part of the office with firebombs. This attack is said to be linked to the organization's role as active protestors at irregularities in the recent presidential elections in Armenia. It is reported that Mr. Arthur Sakunts was allegedly arrested on 15 March 2003, after the mayor of Vanadzor

allegedly denied HCAV permission to hold a meeting outside its offices to inform the population of the alleged irregularities that it had monitored during the electoral process.

Observations

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

Azerbaijan

Communications sent

26. On 28 April 2003, the Special Representative transmitted an urgent appeal concerning **Eldar Zeynalov**, Chief of the Human Rights Centre of Azerbaijan and **Leyla Yunus**, Director of the Institute of Peace and Democracy, who have reportedly been the victims of attacks resulting from an alleged defamation campaign. According to the information received, on 22 April 2003 a former public official of Baku City and current member of the leadership of the Musavat party, whose name is known to the Special Representative, allegedly made a statement that was aired on the State-controlled television channel ANS, calling for action against Eldar Zeynalov and Leyla Yunus describing them as "enemies" of the people. On 23 April 2003, a group of 30 young men allegedly attacked the office of the Human Rights Centre. It has been suggested that this attack might be the first result of a campaign of defamation reportedly being communicated through State-controlled television and which allegedly targets human rights defenders.

27. On 2 May 2003, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, transmitted a follow-up urgent appeal concerning the same men. According to the information received, on the above-mentioned TV programme **Eldar Zeynalov's** private home phone number was allegedly made public on 22 April while the audience was allegedly called on to pressure them to leave Azerbaijan. According to the information received, the following day, a group of 30 men allegedly attacked the HRCA offices with eggs and garbage and issued a written statement demanding that criminal proceedings be opened against Mr. Zeynalov on charges of "treason to the Motherland". Further, it is reported that on 24 April 2003, a bigger group made of members of a political party returned to the HRCA offices. Protestors allegedly burnt a photograph of Eldar Zeylanov and attacked the premises with chemicals. The police, who were reportedly present at both incidents, allegedly failed to take any action. It has been reported that, on 25 April 2003, a similar attack against the HRCA premises took place when activists from the ruling Party New Azerbaijan (YAP) accused Zeynalov of being Armenian and demanded his exile. Furthermore, according to the information received, on 28 April, Mr. Zeynalov's father- in -law, Isakh Tahirov, and his sister- in- law, Zemfira Yusif-Zade, were assaulted by neighbours, who allegedly told them to leave Azerbaijan. On the same day, the office of the Institute of Peace and Democracy, led by Leyla Yunus, was allegedly attacked. It is reported that on 29 April 2003, security guards from a private firm, who had been hired by HRCA on 25 of April to protect the organization's premises, allegedly failed to take their shift. When asked, the firm allegedly explained that the Ministry of the Interior and the Ministry of National Security had strongly advised them to terminate this service.

28. On 7 July 2003, the Special Representative, together with the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, transmitted an allegation letter concerning a number of women, including the singer **Flora Kerimova**, chairperson of the Dilara Aliyeva Society to Protect Women's Rights. These women were reportedly assaulted by men in civil clothing on 20 June 2001, while conducting a silent sit-down demonstration against police violence in a square near the State Philharmonic building in Baku. Police officers had earlier allegedly attempted to prevent the demonstration from taking place. A group of men allegedly appeared in the square and tried violently to seize and destroy the protestors' placards, reportedly twisting some of the women activists' arms in the process. Some of the women were reportedly injured. A large group of police officers reportedly stood nearby and watched the incident. The head of Sabail District Police Department who was present at the demonstration is reported to have stated that the women had provoked the incident themselves.

29. On 6 October 2003, 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 appeal regarding the alleged expulsion from Nakhchivan of a team of election monitors and youth activists from Serbia, sponsored by the Open Society Institute (OSI), an organization which supports democratic initiatives, and the alleged attacks against **Novella Jafaroglu** and **Sadagat Pashaeva**, respectively chairperson and member of the Association for the Protection of Women's Rights, **Saadat Benaniarly**, head of the Azerbaijan Chapter of the International Society for Human Rights, and **Melhat Nassibova**, director of the Nakhchivan Human Rights Resource Centre. According to information received, Novella Jafaroglu, Saadat Benaniarly and Sadagat Pashaeva went to Nakhchivan on 25 September to open "Bizim Nakhchivan", the first independent newspaper in the region. It is reported that in parallel, the three women and Melhat Nassibova organized publicity, accommodation and venues for a series of OSI sponsored workshop on voting rights and election monitoring to be held on 28 September 2003 in Nakhchivan, in preparation for the upcoming presidential elections on 15 October 2003. On 27 September 2003, a few hours before the election-training team was reportedly due to arrive in Nakhchivan, the four women were allegedly beaten and had tomatoes thrown at them by a group of some 50 women in front of the Nakhchivan Human Rights Resource Centre. The police, who allegedly arrived an hour later, allegedly advised the four women to leave Nakhchivan as they reportedly claimed not to be able to guarantee their safety. On the same day, the police reportedly arrived at the Centre and allegedly asked the workshop participants to leave, before forcibly placing the election-training team on a flight to Baku. Police also allegedly ordered a second team of Serbian election educators on their way to Ordubat to turn around. Concern was expressed that the attacks against Novella Jafaroglu, Saadat Benaniarly, Sadagat Pashaeva and Melhat Nassibova may be related to their human rights work, in particular with regard to their work on elections.

30. On 30 October the Special Representative transmitted a letter of allegation regarding the following cases expressing concern that the individuals below may have been targeted because of their activities as human rights defenders, in the context of the presidential election of 15 October 2003.

31. **Azer Hasret**, Secretary- General of the Azerbaijan Journalists Confederation, was allegedly beaten by the police on 16 October 2003 as he was reportedly monitoring a forbidden meeting in Baku protesting the result of the presidential election.
32. **Azer Mammedov** and **Ramil Djarchiyev**, members of the Qazakh Human Rights Resource Centre, a project of the Association for the Protection of Women's Right, were allegedly arrested in Qazakh on 17 October 2003 and were reportedly still in detention.
33. **Azad Nazimanoglu** and **Najaf Allahverdiyev**, members of the Centre for the Protection of Conscience and Religious Freedoms (DEVAMM), a non-governmental organization that works to protect religious rights, were allegedly arrested on 17 October 2003.
34. **Azer Ramizoglu** and **Ilqar Ibrahimoglu**, respectively chairman and chief coordinator of DEVAMM. On 17 October 2003, the police allegedly arrived at the Cuma Mescid Mosque, Baku, seeking to arrest both men. From 17 to 19 October 2003, Ilqar Ibrahimoglu reportedly took refuge in the Norwegian Embassy.
35. **Ilqar Altay**, director of the Committee of Protection of Rights, an ad hoc committee established after the arrest of the leader of the Umid Party on 17 October 2003, was allegedly arrested on 18 October 2003 and served with a seven-day administrative detention sentence. His whereabouts were allegedly unknown.
36. **Mehdi Mehdiyev** the director of the Human Rights Resources Centre in Baku, a project of 11 human rights NGOs aimed at providing resources to local human rights activists, was allegedly summoned to present himself to the police on 18 and 19 October 2003. On 20 October 2003, he allegedly received a night visit by policemen in plain clothes. The police allegedly tried to break his door and allegedly threatened him with arrest and torture in order to pressure him to make public statements against opposition leaders claiming they had committed criminal acts.

Communications received

37. By letter dated 23 September 2003, the Government replied to the communication sent regarding the Dilyara Alieva Society for the Protection of Women's Rights. The Government informed the Special Representative that an inquiry had been conducted by the Ministry of Internal Affairs which concluded that no illegal actions had been used by police officers in preventing the unauthorized picket arranged by the Society and that no force had been used against **Flora Kerimova** and further that no complaints had been lodged by her regarding this matter.
38. By letter dated 14 November 2003, the Government replied to the communication sent regarding the situation of **Novella Jafaroglu** and **Sadagat Pashaeva**. The Government informed the Special Representative that a complaint had been lodged by the women on 2 October 2003 and that an official inquiry was undertaken by the Department of Internal Investigations at the Ministry of Internal Affairs. The investigation confirmed that the police had in fact neglected their duties in failing to prevent the violence inflicted on **Novella Jafaroglu** and **Sadagat Pashaeva** both in the town and at the airport of Nakhchivan. On 3 October and 1

November disciplinary penalties in the form of reprimands and warnings were imposed on the members of the police force in question.

39. By letter dated 26 December 2003, the Government replied to the communication sent by the Special Representative on 30 October 2003. The Government informed the Special Representative that no coercive measures of a procedural nature had been taken against **Azer Hasrat, Nushaba Mamedova, Mekhtiev Mekhti Kazym** or any of the other persons detained. It confirmed that **Ilgar Ali** had been sentenced by a court order on 18 October 2003 to seven days administrative detention for failure to obey the lawful instructions of police officers engaged in the preservation of public order and stated that he had been granted early release on 24 October 2003. It also confirmed that **Azer Mamedov** had been sentenced on 19 October 2003 to 15 days' administrative detention for anti-social behavior and stated that he had been granted early release on 25 October 2003. It also stated that a person with the same name and surname as Mr. Mekhtiev, one Mekhtieve Mekhti Kazym ogly, had been sentenced by a court order on 20 October 2003 to 10 days' administrative detention for failure to obey the lawful instructions of police officers engaged in the preservation of public order. He was released two days later. Finally the Government informed that among the staff of the Qazakh Human Rights Resources Centre only one individual - identified in the letter as Djarchiey (Djarchyly Ramil Firdovsi ogly) - was detained by order of the court for participating in the mass disturbances of 16 October 2003. In the course of the investigation he was charged with an offence under article 220, paragraph 1, and article 315, paragraph 2, of the Criminal Code of the Republic of Azerbaijan.

Observations

40. The Special Representative thanks the Government for its responses. She welcomes the action taken by the Government in the Jafaroglu and Pashaeva case, in particular the carrying out of an investigation and the sanction being imposed on perpetrators. She regrets that the OSI workshop was reportedly not allowed to take place and that election trainers were prevented from carrying out their duty. She hopes that she will soon receive responses to her other communications. She expresses deep concern about allegations of defamation campaigns against defenders and the lack of response from law enforcement officials in cases of violence perpetrated by non-State actors against defenders. She is equally deeply concerned about allegations of arrests and harassment perpetrated against defenders in the context of the presidential election.

Bangladesh

Communications sent

41. On 4 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 Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding reports of the arrest in Dakha on 29 November 2003 of **Salah Uddin Shoaib Choudhury**, editor of the magazine *Blitz* and head of the Bangladeshi branch of the International Forum for the Literature and Culture of Peace (IFLAC) - an organization of writers who campaign for peace. Salah Uddin Shoaib Choudhury was reportedly arrested, as he was about to

leave for Israel to take part in a symposium organized by the Hebrew Writers Association. He is reportedly accused of spying for Israel on the basis of the text of a speech he was to have given on the media's role in the dialogue between Muslims and Jews, and that he could be charged with "sedition", a crime punishable by death. Mr. Choudhury was reportedly detained by police at Dakha Airport as he was about to board a flight to Tel Aviv via Bangkok, and a judge has reportedly granted the police permission to detain him for seven days. He was reportedly being held in Dhaka's Cantonment police station, where secret service officers were said to be interrogating him. The secret services reportedly claim that documents found in Choudhury's briefcase - especially the text of his speech and reports on the human rights situation in Bangladesh - are evidence of his spying on behalf of Israel. Reports indicate that a few hours after his arrest, police seized all the computer equipment, including printers and CD-ROMs, at the offices of his magazine and his home. It is reported that in his speech, Mr. Choudhury stressed the key role that the news media in Muslim countries have to play in constructing peace in the Middle East.

Observations

42. The Special Representative regrets that at the time of the finalization of her report no reply had been received to her communication.

Belarus

Communications sent

43. On 30 September 2003, 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 appeal on the alleged request to shut down Viasna, a human rights organization working on the defence of constitutional rights. On 2 September 2003, the Ministry of Justice allegedly lodged a complaint with the Supreme Court against Viasna reportedly on the basis of the alleged violation of electoral laws in its monitoring of the last presidential election and in disseminating information on the alleged observed violations. The complaint reportedly also mentioned alleged violations of management rules and the number of members in the organization. On 23 September 2003, a pre-trial hearing reportedly took place. Fears have been expressed that these proceedings may be aimed at closing down the organization in order to prevent it from conducting its human rights activities.

44. On 1 October 2003, the Special Representative transmitted an urgent appeal concerning the alleged threat to close down the women's rights group, Women's Response. On 13 August 2003, the Ministry of Justice allegedly filed a suit with the Supreme Court against Women's Response on the ground that the organization's address was different from that officially registered and that the number of its members was below that required for it to be registered. The first hearing on the case was reportedly scheduled to take place on 7 October. Concern has been expressed that the primary motivation for these proceedings may be to close the organization in an attempt to prevent it from carrying out its human rights activities.

45. On 1 October 2003, the Special Representative transmitted an urgent appeal concerning the situation of the Belarusian Helsinki Committee (BHC), the Belarus branch of the International Helsinki Federation, which monitors human rights violations. On 19 August 2003, 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. Concerns have been expressed that the primary objective of this reported warning may be an attempt to intimidate the organization and prevent it from carrying out its human rights work. It is reported that under the current practice, BHC could face closure if it receives a second warning from the Ministry of Justice.

46. On 2 October 2003, the Special Representative transmitted a letter of allegation concerning cases of human rights non-governmental organizations (NGOs) reportedly facing closure. She expressed concern that the primary motivation behind these proceedings may have been to prevent these organizations from conducting their human rights defenders activities. The communication included the cases mentioned below.

47. On 8 September 2003, the Minsk City Court reportedly decided to close the Legal Assistance to the Population, an NGO working on disappearances, after the organization had allegedly received two official warnings from the Ministry of Justice in the course of the year. These warnings had allegedly been issued on the basis that the organization had rendered free legal assistance to the general public and used an organizational symbol different from that used at the time of registration.

48. On 21 August 2003, the regional court in Grodno allegedly issued a ruling to close Ratusha, an NGO resource centre that provides information and support to the creation of NGOs in the country, including human rights NGOs. The ruling was allegedly issued on the basis that the organization had received two official warnings for reportedly owning and operating printing equipment without the required permit and using non-register symbols.

49. On 14 August 2003, the Belarusian Constitutional Court reportedly upheld a ruling made by Gomel Regional Court on 17 June 2003 to close the NGO resource centre Civic Initiatives. The resource centre, located in Gomel in south-eastern Belarus, was reportedly used by approximately 100 civil society groups in the region, including human rights organizations. The court decision was reportedly made on the basis that the organization had allegedly created structures not provided for in its founding statutes and had allegedly used foreign funding to purchase its equipment.

50. On 2 June 2003, the Department of Justice allegedly filed a suit with the Vitsbek regional court to close the Kontur Centre of Youth Initiatives, an NGO working at developing a democratic culture amongst the youth and occasionally providing legal assistance. On 31 July 2003, the court reportedly ruled to liquidate the organization allegedly on the basis that its address was different from that officially registered and that the organization had reportedly used foreign funding.

51. On 22 April 2003, the Department of Justice of Brest Regional Administration reportedly lodged a complaint with the Brest regional court against Varuta, a resource centre which works in the field of civil society building and reportedly publishes an information bulletin,

disseminating information about the work of non-registered organizations, in particular human rights NGOs. The complaint was allegedly based on the fact that the organization was using a different name from that mentioned in its statute and that it disseminated information on a non-registered organization. On 9 July 2003, Varuta was reportedly closed.

52. On the 29 October, the Special Representative jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal regarding the situation of the Viasna Human Rights Centre, which had been the subject of a joint urgent appeal sent by the Special Representative on 30 September 2003. According to the information received, on 28 October, a judge of the Supreme Court of Belarus reportedly ordered the closure of the Viasna Human Rights Centre. The case against the organization was reportedly put forward by the Ministry of Justice for producing false documents while applying for registration in 1999, violating electoral regulations during the 2001 presidential election and representing non-members in court, as well as a lack of adequate representation over the territory to qualify as a national organization. It is reported that the judge dismissed all the charges except the violation of electoral regulations, which was held sufficient to dissolve this organization. The ruling was reportedly contested by the head of the organization, **Ales Belyatsky, Vladimir Labkovich and Valentin Stefanovich**, two lawyers representing the organization, and five other members of the organization, who allegedly started a sit-in in the courtroom to denounce what they saw as a politically motivated decision. They were reportedly detained by the police after they refused to leave the building and charged with disobedience of police orders under article 166 of the Civil Code. They were due to stand trial on 29 October 2003.

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

53. By letter of 8 January 2003, the Government replied to the letter of allegation sent by the Special Representative on 6 November 2002. The Government informed the Special Representative that **Paulina Panasyuk** had been found guilty of unlawful picketing which contravened the Meetings, Rallies and Pickets Act and, given that she had failed to appear in court and had been unable to pay a fine, she had been placed in administrative detention. Regarding the voluntary association "Brest Regional Centre for supporting civil initiatives Vezha" the Government stated that the court's decision to close down the organization was justified on the grounds that it had breached the Voluntary Associations Act of 4 October 1994. According to the Government, the organization had been operating under names and addresses which were inconsistent with those appearing in the association's statutes and in this respect had been issued with two written warnings. Further to this, the organization also distributed a newsletter containing information on the activities of unregistered voluntary associations. The Government also provided further information on the case of **Yury Khashchavatsky, Nikolai Khalesin, Valery Shchukin, Dmitry Bondarenko and Aleh Zhlutko**. The Government stated that all of the above had been found guilty of contravening the Meetings, Rallies and Pickets Act by leading a rally, which had been authorized by the appropriate authorities, away from the designated area and causing a breach to the public order. For this reason, they had been placed under administrative detention, a decision which had been upheld by the Minsk City Court on 29 April 2002.

Observations

54. The Special Representative thanks the Government for its replies to communications sent in 2002. She notes that a response to some cases raised in 2003 was sent by the Government on 11 February 2004. However due to reporting deadlines it could not be included in the present report. She hopes to receive soon information on the remaining communications she sent in 2003. She expresses deep concern over the numerous allegations of human rights NGOs being administratively and judicially closed on the basis of minor administrative irregularities. She is also concerned that such action by the authorities may lead to restricting freedom of association unduly and generate an overly restrictive environment for defenders to carry out activities protected under the Declaration on human rights defenders. She regrets that no response has been received to her request for an invitation to conduct an official visit first sent on 1 July 2002.

Bolivia

Comunicaciones enviadas

55. El 27 de enero de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Presidente-Relator del Grupo de Trabajo sobre la Detención Arbitraria, el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas en relación con las protestas que han tenido lugar en el país en torno a la situación de la región cocalera del Chapare, entre el 13 y el 19 de enero de 2003. Según las informaciones recibidas, la intervención de la policía nacional y las fuerzas armadas para reprimir las protestas habría resultado en varios muertos y heridos. Se informa que el 13 de enero de 2003, en la localidad de Chimoré, **Esteban García**, de aproximadamente 42 años de edad, habría sido herido en el maxilar inferior por el impacto de un proyectil de arma de fuego. Por la gravedad de la lesión habría sido evacuado a la ciudad de Santa Cruz. El hecho habría ocurrido mientras las fuerzas de la policía y el ejército reprimían a productores de hoja de coca que bloqueaban la carretera entre Cochabamba y Santa Cruz. Se alega que el lunes 13 de enero de 2003, en diferentes puntos de la ciudad de Cochabamba; como la Plazuela Busch, la Plazuela San Sebastián, la Laguna Alalay, terminal de autobuses y algunos otros sectores de la ciudad, las fuerzas de orden y seguridad habrían procedido a detener en forma presuntamente arbitraria e ilegal a más de 168 ciudadanos. Se alega que los detenidos habrían sido trasladados a diversas unidades militares, como la de la fuerza aérea. Entre los detenidos se habría encontrado la ciudadana **Judith Camargo**, miembro voluntario de la Asamblea Permanente de Derechos Humanos de Cochabamba. Se informa que el 19 de enero 2003 otras 320 personas habrían sido arrestadas y trasladadas a la base aérea militar en la ciudad de Cochabamba, cuando se encontraban velando a su compañero en la localidad de Parotani. Durante los incidentes se informa que habrían muerto más de cuatro personas por proyectiles de armas de fuego. Estos serían: **Rómulo Gonzales** Terán, de 18 años, en la zona de Cayarrani, Colomi, por herida de bala en el tórax en fecha 13 de enero de 2003; **Félix Ibarra**, en la localidad de Aguirre, por impacto de bala en el abdomen inferior, en fecha 14 de enero; **Willy Hinojosa**, de 23 años, muerto en Sinahota por disparo de proyectil de arma de fuego en el abdomen en fecha 14 de enero; **Victor Hinojosa**, de 35 años aproximadamente, por disparo de arma de fuego entre Llavini y Parotani en fecha 14 de enero; y **Escaldercio Orellana**, muerto producto del impacto de proyectil de arma de fuego en fecha 16 de enero en la localidad de San Julián del departamento de Santa Cruz. Asimismo, se habría constatado la muerte de la ciudadana **Tomasa Condori**, hecho que habría ocurrido en la

localidad de Shinaota en circunstancias no esclarecidas. **Adrián Martínez**, trabajador minero de 48 años, también habría muerto producto del impacto de un proyectil de arma de fuego. El hecho habría ocurrido en la carretera entre La Paz y Oruro en el lugar denominado Cruce de Machacamarquita, el 19 de enero. Asimismo se recibió información sobre **Iver Quispe**, de 21 años, en Palo Blanco, Entre Rios, quien habría sido encontrado en la carretera con rasgos de tortura según versión de los campesinos. Al respecto se recibió información indicando que las Fuerzas Armadas habrían establecido que fue atropellado en fecha 19 de enero. Según las informaciones recibidas, la situación en torno a las protestas seguiría tensa. En vista de las presuntas violaciones de los derechos humanos que se alega habrían sido cometidas entre el 13 y el 17 de enero, se teme por la vida y la integridad de las personas que continúan protestando en la actualidad.

56. El 2 de abril de 2003 la Representante Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, 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 en relación con las denuncias graves recibidas según las cuales en la tarde del 13 de marzo de 2003 **Cliver Rocha**, responsable de la Unidad Regional del Centro de Estudios Jurídicos e Investigación Social (CEJIS) en Riberalta y asesor de la Central Indígena de la Región Amazónica de Bolivia (CIRABO), habría sido agredido en las puertas del Juzgado Agrario de Riberalta cuando se retiraba de una audiencia pública en la que se disputaban las tierras de la comunidad La Esperanza, del pueblo indígena Tacana. El abogado Cliver Rocha habría sido perseguido a la salida del juzgado, golpeado en reiteradas oportunidades en la parte posterior de la cabeza y amenazado de muerte. Se teme que las amenazas y el hostigamiento en contra del Sr. Rocha, varios miembros del CEJIS y otros abogados podrían estar relacionados con el asesoramiento jurídico a los pueblos indígenas en los procesos de titulación de los territorios indígenas ancestrales. A pesar de las denuncias que habrían sido interpuestas ante las autoridades competentes, no se tendría información sobre las medidas tomadas por las autoridades para sancionar a los responsables de estos actos.

57. El 7 de mayo de 2003, la Representante Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, 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 en relación con la agresión de la que fue víctima **Cliver Rocha**, abogado del CEJIS, cuyo caso ya fue objeto de un llamamiento urgente enviado el 2 de abril de 2003 por los mismos autores. Según la información recibida, el 23 de abril de 2003 Cliver Rocha habría sido golpeado por dos individuos no identificados que lo habrían seguido en una motocicleta cuando salió de su despacho. Mientras lo golpeaban, los agresores le habrían repetido que abandonara la zona. Esta persona habría sido víctima de otra agresión el 13 de marzo de 2003 que fue objeto del llamamiento urgente anteriormente citado. Se teme que las amenazas y agresiones recibidas por Cliver Rocha y otros abogados del CEJIS, que representan a las comunidades indígenas de los departamentos de Beni y Santa Cruz, están relacionadas con sus actividades de asesoramiento jurídico a los indígenas. A pesar de las denuncias públicas de éstas y otras agresiones supuestamente sufridas por los abogados del CEJIS no se tiene conocimiento de la existencia de ninguna investigación al respecto.

58. El 19 de mayo de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas en relación con las amenazas recibidas por **Carlos Cuasace Surubi**, Presidente de la Organización Indígena Chiquitina (OICH), y **Juan Pinto**, Presidente de la Central Indígena de Comunidades de Concepción (CICC). Según la información recibida, el 28 de abril de 2003, habrían sido amenazados por un individuo tras una reunión en la oficina de la OICH, en la ciudad de Concepción. Esta persona habría dicho trabajar para el jefe de la Unidad Landholding y habría amenazado de muerte a estas dos personas así como con posibles atentados contra las oficinas de la OICH si continuaban las denuncias contra él ante las autoridades. Según las informaciones, la Unidad Landholding es una cooperativa que habría sido identificada como un establecimiento ilegal por el Instituto Nacional de Reforma Agraria (INRA). Asimismo, el Fiscal del Estado habría abierto una investigación penal contra dicha cooperativa por un supuesto delito de destrucción e incendio provocado de bosques en el territorio indígena de Monte Verde. Se teme que estas amenazas estén directamente relacionadas con las actividades de la OICH en favor de los derechos de las comunidades indígenas, y en particular, con aquellas referentes al derecho a la tierra.

59. El 15 de octubre de 2003, la Representante Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, el Relator Especial sobre la cuestión de la tortura y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas en relación con la situación de al menos **50 personas** que habrían resultado muertas como consecuencia de las acciones combinadas de la policía y el ejército con el fin de neutralizar las manifestaciones y romper los bloqueos en diversas partes del país ocurridos desde el 20 de septiembre de 2003. Se informa igualmente de que centenares de personas habrían resultado heridas durante estos despliegues. Se informa de que 14 de estas personas habrían muerto en la ciudad de La Paz el 13 de octubre de 2003. En el desarrollo de dichas operaciones, las fuerzas militares y policiales habrían hecho uso excesivo de la fuerza, en particular con la supuesta utilización de armas de guerra y de grueso calibre, con el fin de repeler a los manifestantes. Se alega igualmente que varios manifestantes habrían sido detenidos. Varias manifestaciones y bloqueos de caminos ya habrían tenido lugar en el país durante las últimas semanas por parte de sindicalistas, campesinos, mineros, indígenas y otros actores sociales que habrían exigido al Gobierno el abandono de un proyecto de venta de gas y la aprobación de un programa que beneficie a los habitantes locales. La Representante Especial muestra preocupaciones entorno a la posibilidad de que nuevos enfrentamientos puedan aumentar el número de víctimas entre la población civil.

60. El 23 de octubre de 2003, la Representante Especial envió un llamamiento urgente con respecto a la situación de la **Asamblea Permanente de Derechos Humanos de Bolivia (APDHB)**, que habría sido víctima de un allanamiento en sus oficinas, en la ciudad de La Paz. Según los informes recibidos, el 19 de octubre de 2003 durante la madrugada, individuos a quienes no se ha podido identificar habrían entrado en las oficinas de la APDHB en la Paz y habrían sustraído varios aparatos electrónicos incluido un video VHS, diversos casetes, un DVD y una computadora portátil. Además, estos individuos habrían intentado también sustraer informaciones que contenían los discos duros de las computadoras de APDHB. Ante este allanamiento, la APDHB habría interpuesto una demanda ante la Policía Técnica Judicial (PTJ) de Bolivia. Se teme que este allanamiento de la sede de la APDHB esté relacionado con la labor

a favor de los derechos humanos que está realizando la mencionada organización, en el contexto difícil que está actualmente atravesando Bolivia.

Alegaciones

61. Según se ha informado, en enero de 2001, un agente de la Unidad Móvil de Patrullaje Rural (UMOPAR) habría disparado a **Godofredo Reinicke**, representante de la **Defensoría del Pueblo en El Chapare**, y a su asistente, **Silvano Arancibia**, cuando ingresaban a la comunidad de Nuevo Tacaparí, Cochabamba, para investigar presuntas violaciones de los derechos humanos. El mismo día del presunto incidente, el acceso de dichos representantes de la Defensoría del Pueblo a la base antidroga del UMOPAR en Chimoré habría sido denegado durante una hora. La Defensoría del Pueblo habría denunciado estos hechos a la Fiscalía de Distrito, la cual habría abierto una investigación al respecto.

62. El 11 de julio de 2003 la Representante Especial envió una carta de alegación junto con el Relator Especial sobre la cuestión de la tortura sobre la situación de **Rolando Gutiérrez Aguilar**, Presidente de la Asamblea Permanente de Derechos Humanos (APDH) en Eterazama, departamento de Cochabamba, y otros defensores de derechos humanos que habrían tratado facilitar el diálogo entre campesinos y autoridades durante las manifestaciones y bloqueos de caminos en la zona de El Chapare en noviembre de 2001 y que habrían sido víctimas de ataques por parte de las fuerzas de seguridad. Rolando Gutiérrez Aguilar habría sido herido en tres ocasiones por miembros de las fuerzas de seguridad en menos de una semana. El 8 de noviembre de 2001 habría sido golpeado con palos por miembros de las fuerzas conjuntas. Dos días después, habría resultado herido en la cabeza por una cápsula de gas lacrimógena y a los dos días de este incidente tres miembros de las fuerzas de seguridad le habrían golpeado con los pies, pegado con palos y propinado golpes con la cacha del revólver mientras lo habrían amenazado. Más tarde habría sido detenido temporalmente y le habrían confiscado su cámara y su identificación como miembro de la APDH.

Comunicaciones recibidas

63. Por carta de fecha 19 de mayo de 2003, el Gobierno informó respecto a la comunicación enviada por la Representante Especial el 19 de mayo de 2003 sobre **Carlos Cuasace Surubi** y **Juan Pinto**. Informó que una solicitud había sido dirigida al Viceministro de Justicia para la elaboración de la información sobre las medidas adoptadas por las autoridades competentes en observancia de normas constitucionales y de carácter internacional vigentes en Bolivia. Confirmó que sería grato volver a referirse al mencionado caso oportunamente.

64. Por carta de fecha 27 de octubre de 2003, el Gobierno informó respecto a la comunicación enviada por la Representante Especial el 11 de julio de 2003 sobre la situación de **Rolando Gutiérrez Aguilar**. Informó que el ex Viceministro de Derechos Humanos presentó una denuncia formal sobre el caso el 5 de noviembre de 2002.

65. Por carta fechada el 10 de noviembre de 2003 el Gobierno informó respecto al llamamiento urgente enviado por la Representante Especial el 15 de octubre de 2002. El Gobierno informó de que, en relación con la situación de los heridos y familiares de fallecidos en

los acontecimientos suscitados entre el 20 de septiembre y el 17 de octubre, en coordinación con miembros de la Comisión Pro-Justicia y Paz efectuó un seguimiento detallado de cada caso con el propósito de colaborar en la atención médica, económica y jurídica. El Gobierno señaló que en el caso de los fallecidos concertará un monto de compensación económica para cada familia de las víctimas, y en el caso de los heridos también efectuará un pago. Además señaló que a través del Decreto Supremo de 31 de octubre se estableció una amnistía temporal para los delitos bajo la competencia de la Ley de Seguridad Ciudadana N.º 2494 por la cual se agravan las penas establecidas a tipos penales que tienen que ver con vulneración de la seguridad común. Por último, informó que el Plan Operativo Anual de la Policía y las Fuerzas Armadas de 2004 comprende entre sus operaciones la capacitación sobre el uso de la fuerza física y las armas de fuego y la difusión de convenios internacionales.

66. Por carta fechada el 13 de enero de 2004, el Gobierno informó respecto al llamamiento urgente enviado por la Representante Especial sobre la situación de **Cliver Rocha**. El Gobierno señaló que el 17 de marzo Cliver Rocha interpuso una denuncia con relación al incidente pero, según la información de las autoridades policiales, abandonó la denuncia y como no había proporcionado mayores elementos de juicio, no fue posible avanzar con la investigación. El Gobierno también hizo saber que, en fecha 13 de junio, el Ministro de Gobierno envió una nota al Fiscal General de la República para informarle de las comunicaciones recibidas en relación con este caso con el objeto de que se realice una investigación. Afirmó que esta investigación coincidió con el informe de las autoridades policiales antes subrayado.

Observaciones

67. La Representante Especial quisiera agradecer las respuestas recibidas del Gobierno y las acciones tomadas por las autoridades. Lamenta no haber recibido respuestas a las otras comunicaciones transmitidas este año y también lamenta en particular los supuestos actos de violencia contra defensores de derechos humanos trabajando por los derechos de los indígenas.

Bosnia and Herzegovina

Communications sent

68. On 14 May 2003, the Special Representative, together with the Special Rapporteur on the question of torture, transmitted an urgent appeal concerning **Mladen Mimic**, President of the Citizens' Association "Milicanin" in Milici, Republica Srpska. On 26 March 2003, Mladen Mimic was allegedly assaulted and beaten in front of his house by a group of unknown men. He was then reportedly transported to the intensive care unit of the Zvornik Hospital and later to Belgrade for urgent surgery. Mladen Mimic's family reportedly immediately informed the local police about this incident but the police allegedly failed to initiate an investigation. Prior to this assault, on 15 March 2003, Mladen Mimic had allegedly received an anonymous letter containing threats. The Chief of Milici police and the Public Prosecutor's Office in Vlasenica were reportedly informed of the threats but, allegedly, no action was taken. On 19 April 2003, Mladen Mimic allegedly received a second anonymous letter of threat explicitly referring to his recent stay at the hospital. According to the information received, Mladen Mimic's assault may

be related to his human rights activities and in particular to the denunciation of abuses committed by public officials in Milici.

Observations

69. 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

70. On 13 February 2003, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, transmitted an urgent appeal concerning the safety of indigenous leader **Marcos Luidson de Araújo**, his mother and other members of the Xucuru indigenous community. On 7 February 2003, Marcos Luidson de Araújo, his nephew Diogo Araújo, Adenilson Barbosa da Silva and Joseílton José dos Santos were reportedly driving a truck in the municipality of Pesquiera in Pernambuco State, when several unidentified gunmen allegedly opened fire on the truck. Adenilson Barbosa da Silva and Joseílton José dos Santos were reportedly killed. Marcos Luidson de Araújo, although injured, managed to escape while Diogo Araújo was unhurt. A group of Xucuru allegedly gave chase to the attackers, and four of the Xucuru were reportedly injured. It is reported that by nightfall on the day of the attack, police had still not arrived at the scene. It is believed that the attack was planned by landowners in the region. Marcos Luidson de Araújo and his mother have reportedly received numerous death threats over the last three years. On October 2002, the Organization of American States (OAS) called on the Brazilian authorities to protect Marcos Luidson de Araújo and his mother Zenilda Maria de Araújo. At the time the appeal was sent, no protection had yet been provided for the family.

71. On 17 April 2003, the Special Representative transmitted an urgent appeal concerning **Carmelia Pereira dos Santos**, a trade union activist, and **Father Luis Ferrari**, who reportedly denounced the alleged torture and death in custody of Nivaldo Brandão de Oliveira in Andaraí police station and reportedly continued to be involved with attempts to bring those responsible to justice. According to information received, Nivaldo Brandão de Oliveira was arrested on 15 February 2003 while visiting his girlfriend, who was being held in Andaraí police station. Nivaldo Brandão de Oliveira who was reportedly under the influence of alcohol was arrested for jumping over a gate inside the building. Residents living near the police station reported hearing the screams of a man being beaten later that night. It was reported that Carmelia Pereira dos Santos and Father Luis Ferrari both received a number of anonymous telephone threats explicitly warning them that their lives would be in danger unless they dropped their involvement in the case.

72. On 9 July 2003, the Special Representative transmitted an urgent appeal concerning the situation of **Brother Henri Burin des Roziers** and members of the Comissão Pastoral de Terra and the Sindicato dos Trabalhadores Rurais de Redenção. According to the information received, on 6 June 2003, unknown individuals allegedly broke into the headquarters of the Sindicato dos

Trabalhadores Rurais de Redenção, and reportedly stole confidential documents, including research on slavery in the State of Pará, leaving behind other valuable objects. It was reported that following the conviction in May 2003 of the landowner responsible for ordering the 1985 killing of João Canuto de Oliveirai, the first case in the southern region of Pará to result in a conviction, intimidation and threats against human rights defenders, civil society leaders and critics of the Government have intensified. Brother Henri Burin des Roziers has allegedly been subjected to a defamation campaign in the local press. According to the information received, these renewed attacks might be linked to the work that the Comissão Pastoral de Terra, and in particular Brother Rozier and the Rural Workers Union in Redenção, have been doing on high-profile cases against impunity for those who commit serious human rights violations in Pará.

73. On 17 October 2003, 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 appeal regarding the reported killings of **Flávio Manoel da Silva**, a key witness for investigations into the actions of extermination groups operating in the cities of Itambé and Pedras de Fogo, and of **Gerson Jesus Bispo**. Both men had reportedly provided information to the Special Rapporteur on extrajudicial, summary or arbitrary executions during her country mission to Brazil. On 27 September 2003, Flávio Manoel da Silva was allegedly killed by two shots to the head fired by two masked men on a motorcycle. On 8 October 2003, Gerson Jesus Bispo was allegedly shot four times by two gunmen on a motorcycle in Santa Antonio de Jesus while on his way to work. Concern has been expressed that Flávio Manoel da Silva and Gerson Jesus Bispo were targeted for cooperating with the Special Rapporteur. Death threats were allegedly also received by other witnesses met by the Special Rapporteur.

Observations

74. The Special Representative regrets that at the time of the finalization of the report no response had been received from the Government. She reiterates her serious concern at violations allegedly being committed against human rights defenders working to promote the rights of indigenous persons, labour rights and rights related to land ownership and use. She is seriously concerned at the killing of two witnesses after they had provided information on alleged abuses of human rights to a United Nations human rights mechanism. She invites the Government to take all necessary measures to ensure that the rights enshrined in the Declaration on human rights defenders are guaranteed.

Bulgaria

Communications sent

75. On 28 November 2003, the Special Representative transmitted a letter regarding the alleged harassment of **Mitio Stefanov Kemalov**, an activist working on Roma rights issues in Bulgaria. According to the information received, on 15 August 2003, Mitio Stefanov Kemalov sent a complaint to the District Prosecutor's Office of Kazanlak regarding an alleged attack on 18 July 2003 on a Romani neighborhood in the village of Vetren. The attack was reportedly carried out by three carloads of armed members of a private security firm, which had allegedly been hired by a local agricultural cooperative farm. On 23 August 2003, Mitio Stefanov

Kemalov reportedly received a visit at his office from an individual who allegedly told him he should be careful with this particular firm and "take good care of himself". On 28 August 2003, he reportedly received a phonecall from a person claiming to be a representative of the Kazanlak branch of the private security firm, and asking if it would be possible to meet with him. It is alleged that the man was verbally abusive, and called Mr. Kemalov a "dirty gypsy". On 29 August 2003, Mitio Stefanov Kemalov's car was allegedly stolen by an unknown individual. Concern was expressed that Mitio Stefanov Kemalov may have been targeted in connection to his work on the rights of the Romani community.

Observations

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

Burundi

Communications envoyées

77. Le 26 février 2003, la Représentante spéciale a envoyé un appel urgent conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression concernant **Alexis Sinduhije**, directeur de Radio Publique Africaine. Le 19 février 2003, sa maison aurait été attaquée par des inconnus. Les informations reçues indiquent que son garde du corps, **M. Nzisabira**, aurait été tué lors de cette attaque. Des craintes ont été exprimées au sujet de la sécurité de M. Sinduhije. Les informations reçues indiquent que cette attaque viserait le travail de Radio Publique Africaine et de son directeur, qui aurait dénoncé divers cas de violations de droits de l'homme et de corruption.

Observations

78. La Représentante spéciale regrette qu'au moment de la finalisation du rapport aucune réponse n'ait été reçue.

Cambodia

Communications sent

79. On 6 February 2003, 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 **Eva Galabru**, a representative of the environmental NGO Global Witness, who was under threat of being sued by the State on charges of disinformation. The charges reportedly followed a statement by Global Witness describing acts of violence allegedly committed by law enforcement officials against representatives of forest communities participating in a peaceful gathering in Phnom Penh on 5 December 2002. According to the information received, Eva Galabru had faced similar charges before the Phnom Penh Municipal court in March 2002 and was the victim of a violent attack by men armed with sticks on 30 April

2002. In addition, it is alleged that Uch Kim Nary, the Director of the Cambodian NGO Peaceful Women for the Environment, has been threatened with arrest by the police. She has reportedly been accused by Phnom Penh officials of helping to organize the gathering of 5 December 2002.

Observations

80. 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

81. Le 20 août 2003, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la question de la torture, a envoyé une lettre d'allégation sur la situation du **Mouvement pour la défense des droits de l'homme et des libertés (MDDHL)**, en particulier de deux de ses membres **Blaise Yacoubou** et **Aminou Mohamadou**, et de leur président, **Abdoulaye Mathe**. Le 10 août 2003, **Blaise Yacoubou** et **Aminou Mohamadou** auraient été convoqués à la brigade des recherches de Maroua pour récupérer leurs papiers d'identité qui auraient été confisqués le 30 avril par le chef de district de Ndoukoula. A leur arrivée le 11 août 2003, les deux hommes auraient été notifiés qu'ils étaient recherchés depuis plusieurs mois et considérés en fuite. Ils auraient été accusés par le procureur du département de Diamaré de s'être introduits, au cours de leur mission du mois d'avril, dans le bureau du chef du district de Ndoukoula et de l'avoir menacé, avant de prendre la fuite en laissant derrière eux leurs papiers d'identité. Ils auraient été incarcérés, et n'auraient été autorisés ni à boire ni à manger. Ils auraient été libérés le 13 août 2003 dans un état de santé précaire, sans que leurs papiers leur soient rendus. Le 17 juin 2003 le président du MDDHL, **Abdoulaye Mathe**, au sujet duquel un appel urgent avait été envoyé par la Représentante spéciale le 18 janvier 2002, aurait été arrêté sans mandat et serait resté en garde à vue au poste de police judiciaire de Maroua pendant deux jours, sans accès à un avocat. Ces arrestations répétées seraient l'effet d'instructions données par le procureur de la République auprès des tribunaux de Diamaré aux officiers de la police judiciaire du département de procéder à l'arrestation des militants des droits de l'homme se trouvant dans sa circonscription. Des craintes ont été exprimées que ces arrestations ne visent à faire obstacle à leurs activités de protection des droits de l'homme, en particulier aux activités d'enquête du MDDHL et leur dénonciation d'exécutions extrajudiciaires par les forces de l'ordre.

82. Le 4 décembre 2003, 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 les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé un appel urgent concernant les menaces de mort qu'aurait reçues **Franka Nzounekang**, directrice de l'organisation des droits humains Human Rights Defence Group (HRDG). Selon les informations communiquées, le 22 novembre 2003, aux environs de 21 h 40, Franka Nzounekang aurait reçu la visite d'un homme faisant référence à un communiqué de presse publié par HRDG sur les violations des droits humains contre le peuple borroros mettant en cause son employeur qui serait également un ami personnel du Président Biya. L'homme lui aurait alors demandé de l'accompagner mais, devant son refus, il serait parti. Le 24 novembre, Franka Nzounekang

aurait été informée qu'un fonctionnaire de la police spéciale aurait déclaré qu'une opération spéciale se préparait contre HRDG et qu'elle serait elle-même arrêtée. Le 26 novembre 2003 vers 22 h 00, un taxi dans lequel elle se trouvait aurait été suivi par une voiture de marque Toyota dont les occupants n'ont pas été identifiés. Le chauffeur de taxi ayant semble-t-il noté que les feux de la Toyota étaient éteints, aurait fait demi-tour et serait parvenu à semer la voiture. Le même jour, le Ministre des communications aurait publié un communiqué de presse condamnant un document sur la torture au Cameroun publié le 31 octobre 2003 par la Fédération internationale des ligues des droits de l'homme (FIDH), en collaboration avec HRDG et d'autres organisations des droits humains camerounaises. Ce communiqué de presse aurait allégué que certaines organisations non gouvernementales ternissent l'image du Gouvernement du Cameroun. Le 27 novembre 2003 vers 17 h 00, Franka Nzounekang aurait reçu un coup de téléphone anonyme l'avertissant qu'une personnalité de haut rang aurait ordonné de la tuer et lui aurait conseillé de faire attention.

83. Le 4 décembre 2003, 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 les exécutions extrajudiciaires, sommaires ou arbitraires a envoyé un appel urgent concernant le harcèlement supposé d'**Alh Wakil** et **Bouba Dirva**, deux membres du Mouvement pour la défense des droits de l'homme et des libertés (MDDHL), et de **Madeleine Afité**, présidente de Action des chrétiens pour l'abolition de la torture (ACAT) à Doula. Selon les informations reçues, le 28 novembre 2003 à 23 h 00, Bouba Dirva aurait reçu la visite de deux gendarmes armés en tenue civile à son domicile à Kousseri près de Maroua. Les gendarmes lui auraient signifié qu'il était sur une liste de personnes recherchées. Ils seraient partis en lui extorquant la somme de 100,000 francs CFA. Le 29 novembre 2003, le domicile d'Alh Wakil aurait été fouillé sans mandat. Selon les informations reçues, le 23 novembre, le lendemain du retour de Madeleine Afité de Genève où elle aurait participé à la trente et unième session du Comité contre la torture, les serrures de son lieu de travail auraient été forcées. Le 28 novembre 2003 à environ 21 h 00, trois policiers auraient été vus sillonnant les alentours de la maison des parents de Madeleine Afité. Au même moment, cette dernière aurait reçu un coup de téléphone anonyme de personnes cherchant à savoir où elle se trouvait. Des craintes ont été exprimées que ce harcèlement supposé pourrait être lié à la publication d'un rapport par la Fédération internationale des ligues des droits de l'homme (FIDH) sur la torture au Cameroun, au cours de la rédaction duquel les chargés de mission de la FIDH auraient rencontré Alh Wakil et Madeleine Afité.

Observations

84. La Représentante spéciale regrette qu'au moment de la finalisation du rapport aucune réponse à ses communications n'ait été reçue. Elle est vivement préoccupée par les allégations de harcèlement dont les défenseurs et membres d'ONG sont apparemment victimes de la part des autorités, en particulier en relation avec leur travail de documentation et de dénonciation des violations des droits de l'homme. Elle invite le Gouvernement à prendre toutes les mesures nécessaires pour garantir le respect des droits énoncés par la Déclaration sur les défenseurs des droits de l'homme.

Communications envoyées

85. Le 24 octobre 2003, la Représentante spéciale a envoyé un appel urgent sur la situation de **FM Liberté**, une radio créée par des ONG indépendantes de défense des droits de l'homme dont elle serait devenue le principal relais au Tchad. Selon les informations reçues, *FM Liberté* aurait été fermée par arrêté du Ministère de la sécurité publique et de l'immigration, en date du 21 octobre 2003, invoquant « un fonctionnement illégal et un comportement déviant », sans apporter plus de précision. Sa fermeture ferait suite à une émission critique à l'égard du Président de la République du Tchad. Des craintes ont été exprimées que cette fermeture ne soit un moyen de faire obstacle aux activités de la radio en faveur des droits de l'homme.

86. Le 2 décembre 2003, la Représentante spéciale a envoyé un appel urgent sur la situation de **Jacqueline Moudeïna**, avocate et défenseur des droits de l'homme. Selon les informations reçues, le 11 novembre 2003, le tribunal correctionnel de N'djaména aurait décidé la relaxe des trois accusés dans l'affaire Jacqueline Moudeïna. Ce procès répondait à de présumées violations qui auraient eu lieu en juin 2001 lors d'une marche pacifique de femmes contre les fraudes électorales constatées lors du scrutin présidentiel, et au cours de laquelle les forces de sécurité auraient lancé des grenades à feu sur les manifestantes. M^e Jacqueline Moudeïna aurait été grièvement blessée au cours de cette manifestation. Elle aurait décidé de porter plainte, avec six autres femmes tchadiennes, auprès du tribunal de N'Djaména le 18 mars 2002, pour violences illégitimes, et coups et blessures aggravés. Selon les informations reçues, le tribunal correctionnel aurait suivi le réquisitoire du Procureur de la République qui aurait affirmé que l'infraction n'était pas constituée, précisant que les prévenus auraient agi conformément aux ordres donnés par leur supérieur hiérarchique. Le Procureur aurait alors déclaré que pour juger cette affaire, il faudrait remonter aux plus hautes autorités de l'Etat. Des craintes ont été exprimées quant au fait que ce jugement, en particulier le réquisitoire du Procureur de la République, ne représente une forme d'impunité et n'accroisse la vulnérabilité des défenseurs des droits de l'homme au Tchad.

87. Le 3 décembre 2003, la Représentante spéciale a envoyé un appel urgent concernant **Souleymane Guengueng**, fondateur de l'Association des victimes de la répression politique au Tchad (AVCRP), une organisation qui travaille à faire la lumière sur les violations des droits humains commises durant le régime de Habré, membre de la Commission nationale des droits de l'Homme, ayant reçu le « Monitor Award » de Human Rights Watch, et archiviste de la Commission du Bassin du Lac Tchad (CBLT). Selon les informations reçues, Souleymane Guengueng aurait été suspendu de son poste pendant trente jours sans salaire par une lettre en date du 15 mars 2002. La lettre aurait cité l'article 7 des statuts de la CBLT et d'autres motifs liés à son travail, et l'aurait informé que d'autres sanctions pourraient survenir s'il ne renonçait pas à ses activités au sein de l'AVCRP. L'article 7 stipulerait que les membres du personnel « peuvent exercer leurs droit civiques, mais ils ne peuvent se livrer à aucune activité politique incompatible avec l'indépendance qu'exige leur statut de fonctionnaires internationaux ou pouvant porter préjudice à la Commission. » Souleymane Guengueng, qui en dépit de cette sanction aurait continué son travail au sein de son organisation, aurait été notifié le 27 janvier 2003 de son licenciement par une lettre en date du 14 novembre 2002, signé par le directeur de la CBLT, invoquant comme motifs les articles 5 et 7 des statuts de la CBLT, ainsi que des supposés

manquements à ses obligations d'employé. Des craintes ont été exprimées que Souleymane Guengueng n'ait été licencié en relation avec son travail en faveur des droits humains, en particulier au sein de l'AVCRP. A cet égard, la Représentante spéciale a attiré l'attention sur les articles 5 et 6 de la Déclaration sur les défenseurs des droits de l'homme, qui garantissent, y compris aux fonctionnaires internationaux, la liberté d'association et le droit de transmettre des opinions et des renseignements sur les droits humains.

Observations

88. La Représentante spéciale regrette qu'au moment de la finalisation du rapport aucune réponse à ses communications n'ait été reçue.

Chile

Comunicaciones enviadas

89. El 25 de abril de 2003, la Representante Especial envió un llamamiento urgente con respecto a la situación de **TravesChile**, agrupación que trabaja en la defensa de los derechos de las personas transgénero en Santiago. Según la información recibida, el 12 de abril de 2003 un grupo de 20 hombres habría atacado el local, golpeando a los activistas que allí se encontraban y disparando al aire con armas de fuego. La vicepresidenta de TravesChile habría sido hospitalizada como consecuencia de los golpes recibidos. El mismo grupo de 20 hombres habría robado los bienes de la organización y destrozado sus instalaciones. Pese a haber sido alertada, la policía habría tardado en acudir y no habría detenido a ninguno de los atacantes. Se teme que el ataque en contra de TravesChile esté relacionado con la documentación y denuncia por parte de la agrupación de casos de abusos policiales contra personas transgénero.

Observaciones

90. La Representante Especial lamenta la ausencia de una respuesta a esta comunicación.

China

Communications sent

91. On 12 February 2003, the Special Representative, together with the Special Rapporteur on the question of torture, transmitted an urgent appeal concerning **Wang Jinbo**, a 30-year-old prisoner and former member of the banned China Democracy Party, who is believed to have been repeatedly subjected to attacks by fellow inmates in a prison in Shandong Province. It is reported that prison authorities failed to ensure his safety and to take action against the perpetrators. It is also alleged that his family was not permitted to visit him and had its telephone cut off by the authorities. According to the information received, he was arrested in May 2001 and charged with "inciting the subversion of State power" in relation to articles he had sent to

overseas Chinese organizations calling for a re-evaluation of the 1989 Tiananmen protests and the release of political prisoners in China. He was reportedly tried on 14 November 2001 by the Intermediate People's Court in Linyi, Shandong Province, and subsequently sentenced to four years' imprisonment. His family was allegedly not permitted to attend the trial. Since his arrest, Wang Jinbo has reportedly gone on several hunger strikes to protest against his treatment. Fears have been expressed for his physical integrity if prison authorities do not take prompt and appropriate action.

92. On 2 April 2003, the Special Representative, together with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, transmitted an urgent appeal concerning the alleged arrests of three family members of **Yuzhi Wang**, a defender of the rights of Falun Gong practitioners. According to the information received, Chengyuan Wang, Yuzhi Wang's brother, was arrested and detained by the Public Security Bureau of Heilongjiang Province in Harbin on 17 January 2003. His sisters Yuxiang Wang and Chunyu Wang were reportedly arrested by the police on 19 March in the cities of Guang Zhou and Man Zhou Li, respectively, and allegedly held in Ha Er Bin. According to our information, the three may have been arrested as a response to the human rights activities of their sister, Yuzhi Wang, a Falun Gong practitioner who has been active in drawing attention to human rights abuses allegedly committed against other Falun Gong practitioners in China.

93. On 5 August 2003, the Special Representative, in conjunction with the Special Rapporteur on the question of torture, transmitted a letter of allegation regarding **Huang Qi**, a computer engineer, who was reportedly arrested in Chengdu on 3 June 2000 with his wife, **Zeng Li**, allegedly for setting up China's first domestic human rights web site. It is reported that Zeng Li was released several days later and that in January 2001, Huang Qi was charged with "subversion". A first court hearing of Huang Qi's case was reportedly held on 13 February 2001. Diplomatic representatives from the European Union and the American Consulate in Chengdu were allegedly refused permission to attend the trial. The trial was reportedly postponed because Huang Qi collapsed in court, and rescheduled for 23 February 2001 but postponed once again, allegedly because of Huang Qi's poor health. It is reported that he was brought to trial again on 14 August 2001 by the Chengdu Intermediate People's Court and that the trial was held in secret. It is alleged that no verdict or sentence has been made public. In an open letter written in prison in 2001, Huang Qi reportedly described how he was ill-treated and beaten by three policemen after his arrest. He allegedly stated that he had tried to commit suicide but was prevented from doing so. His wife and young son have reportedly never been allowed to visit him while in detention and his lawyer was reportedly permitted to visit him only once after his arrest in June 2000.

94. On 3 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 appeal regarding the alleged criminal prosecution and imprisonment of **Zheng Enchong**, a lawyer who has reportedly been active in representing persons suffering from alleged abuses of their economic and social rights. According to the available information Zheng Enchong was convicted by the Shanghai Second Intermediate People's Court on 28 October 2003 and sentenced to three years' imprisonment, on charges of "illegally providing State secrets to entities outside China" in the context of his dissemination of information relating to the situation of families displaced from their homes in a development project and the surrounding by police of

striking workers on 9 May 2003. According to the information received Zheng Enchong was accused of sending information to a human rights organization outside China.

95. On 8 December 2003, the Special Representative, together with the Special Rapporteur on the question of torture, sent a letter of allegation regarding **Huang Qi**, a computer engineer, who was reportedly arrested in Chengdu on 3 June 2000 with his wife, **Zeng Li**, allegedly for setting up China's first domestic human rights web site. It was reported that Zeng Li was released several days later and that in January 2001, Huang Qi was charged with "subversion". A first court hearing of Huang Qi's case was reportedly held on 13 February 2001. According to the information received, the European Union and the American Consulate in Chengdu tried to send diplomatic representatives to attend the trial but were turned away. The trial was reportedly postponed because Huang Qi collapsed in court. His trial was rescheduled for 23 February 2001 but proceedings were reportedly postponed once again, allegedly because of Huang Qi's poor health. It is reported that he was brought to trial again on 14 August 2001 by the Chengdu Intermediate People's Court and that the trial was held in secret. The Special Rapporteur and the Special Representative were informed that no verdict or sentence has been made public. It is reported that in an open letter written in prison in 2001, Huang Qi described how he was ill-treated and beaten by three policemen after his arrest. He also allegedly stated that he had tried to commit suicide but was prevented from doing so. His wife and young son have reportedly never been allowed to visit him while in detention and his lawyer was permitted to visit him only once after his arrest in June 2000.

Communications received

96. By letter dated 29 April 2003, the Government replied to the communication sent regarding the situation of **Wang Jinbo**. The Government informed the Special Representative that the aforementioned person had been found guilty by the Linyi Intermediate People's Court of incitement to the overthrow of State power and that he had, accordingly, been sentenced to four years' imprisonment on 24 May 2001. The Government stated that, contrary to what had been alleged, Wang Jinbo had not been subjected to torture and that he had received regular, unbroken visits from his family. The Government also stated that the Penal Code, the Code of Criminal Procedure and Prison Regulations, amongst others, afforded the full guarantee of the rights of offenders and prisoners and explicitly prohibited physical and verbal abuse, corporal punishment or ill-treatment.

97. By letter dated 16 May 2003, the Government responded to the urgent appeal sent by the Special Representative on 2 April regarding the arrest of family members of **Yuzhi Wang**. The Government informed the Special Representative that Chengyuan Wang had been taken into criminal detention by the Heilongjiang provincial public security authorities on suspicion of disrupting public order through activities organized by Yuzhi Wang and that during the course of the investigation it had come to light that he had also paid bribes to public officials. His case had therefore been referred to the procuratorial authorities. The Government informed the Special Representative that Yuzhi Wang had, in accordance with the law, been ordered to serve a term of three years' labour re-education. On 5 May 2002, for health reasons, she was granted approval to serve her term outside the custodial facility. The Government also informed the Special Representative that on 1 June 2002 the aforementioned person had left the country. With regard to Yuxiang Wang and Chunyu Wang, sister and brother of Yuzhi Wang, the Government

affirmed that its inquiries had established that no arrests had been made as alleged in the communication sent.

Responses received on communications sent by the Special Representative in previous years

98. By letter dated 28 November 2002, the Government replied to the urgent appeal sent jointly with the Special Rapporteur on the question of torture and the Chairman- Rapporteur of the Working Group on Arbitrary Detention on 16 September 2002 regarding **Wan Yanhai**. The Government stated that he had been detained by members of the Beijing State Security Bureau on suspicion of unlawfully transmitting State secrets abroad. According to the Government, Wan Yanhai had requested in writing that his family should not be notified of his detention and had voluntarily renounced his rights to legal counsel. The Government further stated that due to his positive attitude in acknowledging his guilt and making a statement of repentance, he was granted a discharge on 20 September 2002. The Government assured that he had not been subjected to ill-treatment while in detention and that, at the time it transmitted this reply, Wan Yanhai's health was entirely satisfactory.

99. By letter dated 17 December 2002, the Government replied to the urgent appeal sent jointly with the Special Rapporteur on the question of torture on 10 October 2002 concerning **Li Qun**. The Government informed that she was taken by her family to the Nanjing psychiatric hospital on 28 March 2000. She was diagnosed as suffering from paraphoria and with the agreement of her family admitted to a hospital for treatment. She was discharged from the hospital on 16 June 2000. On 3 April 2001, the Nanjing city labour re-education department ordered her to serve one year and six month's labour re-education owing to her adherence to Falun Gong. Her term was subsequently extended. She was due to be released in the near future.

Observations

100. The Special Representative thanks the Government for its responses. She also notes information she has received from non-governmental sources indicating that family members of Yuzhi Wang were released from their alleged detention over a period of one to three months following the incidents reported and, if this information is accurate, she thanks the Government for its actions in this regard. The Special Representative regrets that she has yet to receive responses to some other communications.

Colombia

Comunicaciones enviadas

101. El 2 de diciembre de 2002, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la cuestión de la tortura y el Presidente-Relator del Grupo de Trabajo sobre la Detención Arbitraria en relación con **Telberto González**, Presidente del sindicato departamental SINDAGRICULTORES de Sucre, que se encontraría detenido desde el 30 de octubre de 2002. Se alega que seis soldados del batallón Bafin de Corsal habrían llegado en una camioneta roja, sin orden de arresto y habrían subido a Telberto González a dicha

camioneta. Hasta la fecha, Telberto González se encontraría incomunicado. Según las informaciones recibidas el 20 de septiembre de 2002 habría sido allanada la casa de Telberto González.

102. El 28 de enero de 2003, la Representante Especial envió un llamamiento urgente en relación con la seguridad de **María Eugenia López**, miembro de la sección de Medellín de ASFADDES de Colombia, a raíz de los informes que indican que paramilitares han estado buscándola. En este contexto se alega que familiares de María Eugenia López habrían recibido información señalando que algunos paramilitares habrían llegado al barrio de El Limonar 2, en Medellín, departamento de Antioquia, el 24 de diciembre de 2002. Según los informes, estos paramilitares habrían recibido la orden, de otro grupo paramilitar que actúa en la zona, de buscar a la familia López. El 31 de diciembre, un hombre y una mujer que viajaban en una motocicleta se habrían detenido ante la casa de María Eugenia López y habrían llamado repetidamente a la puerta. Se alega que llevaban una fotografía de María Eugenia López. Estos se habrían marchado porque nadie les habría abierto la puerta. El 9 de enero de 2003, según indican los informes, los paramilitares habrían enviado a un joven a informar a María Eugenia López de que Barny la esperaba. Barny sería el nombre de un conocido paramilitar que actúa en la zona. María Eugenia López habría respondido que no conocía a nadie con ese nombre. Según los informes, el joven le pidió que lo acompañara, pero ella se negó. Tras este amenazador incidente, María Eugenia López habría abandonado la zona. María Eugenia López es miembro de ASFADDES desde que dos de sus familiares, Olga Luz Echevarría Arreiza y Eliécer Pérez Morales, desaparecieron el 28 de marzo de 1990 en el municipio de Yarumal, departamento de Antioquia. El 5 de junio de 1990, otros seis familiares de María Eugenia López (Marta María López, Luis Gildardo López Gaviria, Ana Yoli Duque López, Marta Milena Duque López, Elvia Rosa Espinosa y Hernán Quintero) resultaron muertos, según los informes, durante un ataque perpetrado por un grupo paramilitar conocido como Los Doce Apóstoles. Al parecer, el compañero de María Eugenia, Cristóbal Vargas, desapareció el 20 de enero de 1991 en el municipio de San Pablo, departamento de Antioquia.

103. El 13 de febrero de 2003, la Representante Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias en relación con la situación de peligro en la que se encuentran los miembros de la organización no gubernamental (ONG) de derechos humanos **Comisión Intereclesial de Justicia y Paz**, que hace campaña contra las violaciones de derechos humanos cometidas por las fuerzas de seguridad y por paramilitares contra las comunidades civiles en las regiones en conflicto en Colombia y que ya fueron el sujeto de dos llamamientos urgentes enviados el 11 de abril y el 19 de agosto de 2002. De acuerdo con las informaciones recibidas, el 2 de febrero de 2003, a las 20.20, un individuo no identificado habría amenazado por teléfono a los miembros de Justicia y Paz, diciendo: “muerte a los guerrilleros de derechos, ya se lo dijimos”. Por otro lado, se informa que el 25 de noviembre de 2002, se había enviado una amenaza de muerte por escrito a Danilo Rueda, defensor de los derechos humanos. Según los informes, las amenazas podrían proceder de paramilitares. Asimismo, se informa que las oficinas de Justicia y Paz en Bogotá habrían sido vigiladas por hombres armados no identificados entre el 15 y el 20 de diciembre.

104. El 4 de abril de 2003, la Representante Especial envió un llamamiento urgente con respecto a la situación de **Domingo Tovar Arrieta**, director del departamento de derechos humanos de la Central Unitaria de Trabajadores (CUT) y **Ana Paulina Tovar González**,

estudiante, hija del anterior, quienes habrían recibido amenazas. Según la información recibida, el 17 de enero de 2003, Ana Paulina Tovar González y su hermana habrían sido seguidas por un grupo de hombres que habría intentado introducir a Ana Paulina Tovar González a la fuerza en su automóvil. Un transeúnte habría acudido en ayuda de las dos muchachas que se habrían escapado. Los informes indican que hacia las 06.20 del 21 de marzo, cuando Ana Paulina Tovar González se dirigía caminando al Hospital de Barranquilla, en el departamento de Atlántico, donde trabaja haciendo prácticas universitarias, habría sido abordada por dos hombres no identificados. Al parecer, uno de ellos la habría agarrado y empujado hacia un automóvil que aguardaba. Los informes indican que, una vez que la introdujeron en el automóvil, le habrían propinado varios puñetazos, antes de que ella consiguiera escapar. El 28 de marzo, Domingo Tovar Arrieta habría recibido una llamada amenazadora en su teléfono por radio, un teléfono que el Gobierno habría proporcionado como protección a los defensores de los derechos humanos tras las amenazas que éstos habrían recibido y ante el temor por su seguridad. La autora de la llamada habría sido una mujer no identificada que habría dicho: «ya estás sintiendo y vas a sentir más». Según la información recibida, a principios de marzo, Domingo Tovar Arrieta habría dado a las autoridades información sobre un plan paramilitar para matar a varios dirigentes sindicales nacionales, entre los que se encontraría él mismo.

105. El 29 de abril de 2003, la Representante Especial envió un llamamiento urgente con respecto a la situación de la **Comisión Colombiana de Juristas**. Según la información recibida, representantes gubernamentales y/o particulares cercanos a altos representantes del Gobierno estarían acusando de manera continua y reiterada a los miembros de la Comisión Colombiana de Juristas de tener contactos con los grupos guerrilleros, en particular con las Fuerzas Armadas Revolucionarias de Colombia (FARC). La fuente informó que el 27 de febrero de 2003, un conocido senador se habría referido a esta organización como el "brazo desarmado y jurídico de las FARC" durante un programa de la cadena estatal de televisión Señal Colombia. Se informó de que el mismo senador habría reiterado sus acusaciones el 25 de marzo durante una sesión plenaria del Senado de la República, que habría sido retransmitida por el mismo canal de televisión. Se teme que, debido al contexto actual en Colombia, tales acusaciones públicas realizadas tanto por oficiales como por particulares, podrían incrementar la vulnerabilidad de los defensores de derechos humanos aumentando la posibilidad de sufrir amenazas de muerte, e incluso, ataques contra su integridad física.

106. El 11 de agosto de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas en relación con la desaparición de **Nhora Cecilia Velásquez Cortés**, miembro de la Asociación Nacional de Mujeres Campesinas, Negras e Indígenas de Colombia (ANMUCIC) y presidenta de la misma organización en la región de Rionegro, departamento de Cundinamarca. De acuerdo con la información recibida, Nhora Cecilia Velásquez Cortés partió el 21 de julio de 2003 hacia las 14.00 de la propiedad Los Naranjos en la zona rural de Sasaima (Cundinamarca). Tenía una cita a las 15.00 del mismo día con su hija y con Juan Segundo Cabrero. Nhora Cecilia Velásquez Cortés nunca llegó a la reunión y se desconoce su paradero. Se informa que en 2002 ella y su familia comenzaron a recibir amenazas de los grupos armados de la región, según se afirma, pertenecientes a un grupo paramilitar. Además, de acuerdo con la información recibida, en todas las regiones donde ANMUCIC ha extendido su labor (Gualiva, Tequendama, Magdalena Centro y el Guavio), se

habría convertido en objeto de acoso frecuente y directo por parte de los grupos paramilitares. Al parecer, el 25 de junio de 2002 uno de los grupos paramilitares habría amenazado con asesinar a Nhora Cecilia Velásquez Cortés y a su familia si no desistía de su labor.

107. El 20 de agosto de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión en relación con la situación de **Mauricio Alvarez, Víctor Jaimés, Juvencio Seija y Elkin Menco**, directivos de la Unión Sindical Obrera (USO) de los Trabajadores del Petróleo, en Barrancabermeja, departamento de Santander y cuyo caso fue considerado en llamamientos urgentes de 24 de julio de 2001 y 7 de marzo de 2002 de la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial. Según la información, habrían recibido amenazas de muerte por parte de un grupo armado identificado como Muerte a Dirigentes de la Unión Sindical Obrera (MDU). De acuerdo con los informes recibidos, el 15 de agosto de 2003 en la madrugada, trabajadores miembros de USO encontraron en las instalaciones de la mencionada organización sindical una tarjeta de condolencia como las que se envían a la familia de un difunto (sufragio) en donde se amenazaría de muerte a los directivos arriba nombrados. De acuerdo con la información recibida, las amenazas referidas podrían guardar relación con la negociación de la convención colectiva presentada por el sindicato USO a la empresa estatal colombiana de petroleros ECOPEPETROL. Se alega que tal negociación habría generado la militarización de las refinerías de Cartagena y Barrancabermeja, la detención y criminalización de varios miembros de USO por parte de las autoridades y la supuesta implementación por parte de la empresa de políticas discriminatorias en la evaluación de la labor realizada por los trabajadores. Estas amenazas se hallarían enmarcadas en un contexto de hostigamiento y amenazas contra la vida y la de las familias de los dirigentes sindicales de la subdirectiva de USO con sede en Cartagena y de la directiva nacional presente tanto en Barrancabermeja como en Bogotá, y más generalmente contra la actividad sindical desarrollada por USO.

108. El 22 de agosto de 2003, la Representante Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas en relación con **Leonora Castaño**, presidenta de ANMUCIC, que estaría siendo objeto de amenazas de muerte, y otras dos mujeres miembros de ANMUCIC, **Nora Cecilia Velásquez** y **Blanca Nubia Díaz**, que habrían permanecido desaparecidas durante el tiempo abajo indicado. De acuerdo con la información recibida, el 13 de agosto de 2003, a las 09.00, en el transcurso de una reunión, Leonora Castaño habría recibido una llamada telefónica en su celular de alguien que habría pretendido ser su novio y habría dicho que la esperaba después de su reunión. Se informa de que Leonora Castaño pudo verificar que esa llamada no fue realizada por su pareja. Ese mismo día, Leonora y otros miembros de ANMUCIC habrían sido seguidos por un hombre sin identificar cuando iban a participar en una reunión con la Comisión Colombiana de Juristas. El 19 de agosto, se habría hallado un mensaje de amenaza de muerte a su familia en la oficina de ANMUCIC en Bogotá. El mensaje habría sido firmado por la Autodefensas Unidas de Colombia (AUC), un grupo paramilitar. Estas amenazas sucederían a la supuesta desaparición y tortura de otras dos mujeres miembros de ANMUCIC. En particular, Nora Cecilia Velásquez, líder de ANMUCIC en el departamento de Cundinamarca, cuyo caso fue considerado por el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, el Representante Especial del Secretario General sobre la situación de

los defensores de los derechos humanos y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas en sus llamamientos urgentes conjuntos de 11 de agosto de 2003. De acuerdo con los informes recibidos, habría sido retenida por fuerzas paramilitares, durante tres días, desde el 21 de julio. Durante ese tiempo habría sido víctima de tortura o malos tratos físicos y psicológicos. Se alega que Nora Cecilia Velásquez fue repetidamente interrogada sobre los líderes de ANMUCIC, en especial, sobre Leonora Castaño. Se alega también que Blanca Nubia Díaz, activista de ANMUCIC en el departamento de La Guajira, habría sido desplazada a la fuerza a la capital de Bogotá, el 1.º de agosto. Allí habría sido retenida durante dos horas por fuerzas paramilitares e interrogada sobre los líderes de ANMUCIC. Se le habría enseñado una “lista negra” de personas amenazadas de muerte donde aparecerían los nombres de líderes de ANMUCIC, entre ellos, el de Leonora Castaño. A la luz de las alegaciones de torturas o malos tratos sufridos por otros miembros de ANMUCIC por su relación con Leonora Castaño, se han expresado temores por su integridad física y por la de otros miembros de ANMUCIC.

109. El 21 de octubre de 2003, la Representante Especial envió un llamamiento urgente con respecto al supuesto asesinato de **Esperanza Amaris Miranda**, defensora de derechos humanos, miembro del equipo base de la Casa de la Mujer del Nor-Oriente de la Organización Femenina Popular (OFP), situada en el barrio Primero de Mayo, Barrancabermeja. Según las informaciones recibidas, el 16 de octubre, tres paramilitares armados habrían llegado a bordo de un vehículo de servicio público alrededor de las 19.30 a la puerta de la casa de Esperanza Amaris Miranda en el barrio Versalles. Amaris Miranda habría sido forzada a entrar en el auto a pesar de los ruegos de su hija quien se habría lanzado al vehículo, siendo arrastrada durante aproximadamente 200 metros hasta caer y quedar sobre el piso, herida en un hombro. Cinco minutos después de estos hechos, Esperanza Amaris Miranda habría sido asesinada por los paramilitares frente al colegio Camilo Torres Restrepo y su cadáver arrojado en la vía pública. El Comité Operativo Intersectorial de la OFP habría instaurado un mecanismo de comunicación para tener una reacción inmediata frente a cualquier tipo de violación de los derechos humanos. La OFP intentó comunicarse con la fuerza pública en el momento mismo en que se habría tenido conocimiento de su desaparición, sin éxito a pesar de este mecanismo, puesto que nadie contestó a las llamadas. Se teme que este asesinato esté relacionado con su trabajo a favor de los derechos humanos, y en particular en relación con sus denuncias ante la Fiscalía de las amenazas provenientes de grupos paramilitares.

110. El 12 de noviembre de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias en relación con la situación de **Domingo Tovar Arrieta**, director del departamento de derechos humanos de CUT, quien habría recibido una amenaza de muerte. Según los informes recibidos, el 30 de octubre de 2003, Domingo Tovar Arrieta habría recibido en su teléfono móvil una llamada anónima cuyo autor le amenazó con atentar contra su vida. Según las informaciones recibidas, el individuo habría pronunciado las palabras: “pagaré con su vida la pérdida del referendo”. Según las fuentes, paramilitares habrían amenazado a varios sindicatos y ONG que habrían llamado a la población a la abstención. La Representante Especial y los Relatores Especiales temen que esta presunta amenaza de muerte esté relacionada con la campaña llevada a cabo por Domingo Tovar Arrieta y su sindicato a favor de la abstención en el referendun nacional que tuvo lugar el 25 de octubre en Colombia.

111. El 3 de diciembre de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias en relación con la seguridad de **Adriana Cuéllar**, periodista y jefa de la oficina de comunicaciones del colectivo de abogados José Alvear Restrepo. De acuerdo con las informaciones recibidas, el 24 de noviembre de 2003, Adriana Cuéllar habría recibido en el contestador de su casa insultos y amenazas de muerte contra ella y miembros de su familia. Asimismo, el 25 de noviembre, desconocidos habrían entrado a su residencia y habrían robado documentos relacionados con su trabajo. Se teme que estas amenazas de muerte estén relacionadas con su actividad en el ámbito de los derechos humanos. Se informa que los miembros del colectivo de abogados José Alvear Restrepo estarían siendo víctimas de constantes amenazas y hostigamiento. En este sentido, la Corte Interamericana de Derechos Humanos les habría otorgado medidas cautelares, exigiendo que el Estado colombiano brindara una protección especial a favor de los trabajadores de dicha organización.

Comunicaciones recibidas

112. Por carta fechada el 29 de enero de 2004 el Gobierno proporcionó más información sobre el caso de **Esperanza Amaris Miranda**. El Gobierno informó que los hechos relacionados con el homicidio están siendo investigados por la Fiscalía Unidad Nacional de Derechos Humanos y Derecho Internacional Humanitario de la ciudad de Bucaramanga que ya ha detenido a un miembro de las autodefensas. El Gobierno se comprometió a seguir atento al resultado de las investigaciones e informar oportunamente a la Representante Especial.

113. El 6 de mayo de 2003, el Gobierno de Colombia envió una comunicación a la Representante Especial en relación con las presuntas continuas amenazas contra **Domingo Tovar Arrieta**, de la central de trabajadores CUT. El Gobierno informó de que el Sr. Arrieta es beneficiario de medidas cautelares otorgadas por la Comisión Interamericana de Derechos Humanos desde el 21 de noviembre de 1997. El Gobierno indica, además, que el 11 de abril de 2003, llevó a cabo una reunión con las entidades competentes con el objeto de analizar la situación del Sr. Tovar Arrieta y de su familia. En esta reunión participaron la Vicepresidencia de la República, el Ministerio del Interior, la Policía Nacional, el Departamento Administrativo de Seguridad, la Procuraduría General de la Nación, la Fiscalía General de la Nación y la Defensoría del Pueblo. El Gobierno de Colombia informa de las medidas que se tomaron durante esta reunión. En la reunión, el Ministerio del Interior informó de que Domingo Tovar Arrieta se encuentra en el programa de protección desde 1998. Asimismo, el Comité de Reglamentación y Evaluación de los Riesgos (CRER) aprobó en reunión de marzo de 2003 nuevas acciones, incluso la designación de un escolta de confianza. Frente a las denuncias de hechos nuevos que pondrían en graves riesgos a sus hijas residentes la ciudad de Barranquilla, se determinó, como medida de urgencia, el desplazamiento de uno de los escoltas desde la ciudad de Bogotá y la utilización de un vehículo blindado, como medida provisional. Entretanto, la Fiscalía General de la Nación informó que se verificarán los estados de las investigaciones adelantadas, pero solicitó que el Sr. Tovar Arrieta judicialice los nuevos hechos denunciados y amplíe las denuncias presentadas. El Gobierno, así como la Procuraduría General de la Nación, harán una revisión y seguimiento a las medidas, seguirán atentos al resultado de la investigación e informarán oportunamente a la Representante Especial.

114. El 18 de septiembre de 2003 el Gobierno de Colombia envió una nota diplomática en relación con la presunta desaparición de **Nhora Cecilia Velásquez Cortés**, miembro de ANMUCIC y Presidenta de la misma organización en la región de Rionegro, departamento de Cundinamarca. La policía informó que una vez conocido el hecho se realizó un programa con unidades del Departamento de Policía para su búsqueda y localización. Una vez conocida la información se procedió a reportar todas las unidades del Distrito. El Comando del Departamento de Policía de Cundinamarca tomó contacto con el Personero del municipio de Sasaima, quien suministró características físicas para la identificación de la Sra. Velásquez, las cuales fueron difundidas a las unidades. A raíz de eso, a las 04.00, un patrullero de la policía abordó a una mujer que correspondía a la descripción de la Sra. Velásquez y la guió hasta la estación, donde fue identificada por el comandante. La Sra. Velásquez aseguró que cuando se trasladaba a una reunión en la escuela de la Vereda El Mojón, el 21 de julio de 2003, en la cual tenía que entrevistarse con un profesor del Servicio Nacional de Aprendizaje (SENA), fue interceptada por tres individuos que vestían prendas y portaban armas a uso privativo de las fuerzas militares, y quienes le propiciaron un golpe en la cabeza, quedando en estado de inconsciencia, para luego hurtar su cédula de ciudadanía, algún dinero y algunas joyas. Posteriormente, fue llevada al hospital Diógenes Troncoso de ese municipio, con el fin que le realizara una valoración médica. A las 11.00, personal de la SIPOL-DECUN, la condujo hacia el Departamento de Policía de Cundinamarca, en la ciudad de Bogotá, donde se procedió a recepcionar la respectiva denuncia por los hechos sucedidos, diligencia que fue interrumpida por una funcionaria de la Comisión Colombiana de Juristas, quien solicitó la intervención de la Defensoría del Pueblo, institución que avaló el proceso y consideró transparente el cumplimiento de la normatividad por parte de la Seccional de Policía Judicial (SIJIN). Finalmente se procedió a realizar un acta de diligencia en presencia de la Defensoría del Pueblo, de los abogados de la Comisión Colombiana de Juristas y del personal de la Policía Judicial. El Gobierno de Colombia seguirá informando oportunamente a la Representante Especial.

115. Por carta fechada el 25 febrero de 2003 el Gobierno contestó a la comunicación transmitida sobre el caso de **Telberto González**. Informó que el 27 diciembre el Sr. González fue retenido en diligencia de allanamiento en su lugar de residencia el 31 de octubre. La situación jurídica fue resuelta con detención preventiva sin beneficio de excarcelación. Sin embargo y en atención de su edad, el despacho consideró pertinente cambiar su sitio de reclusión por el lugar de su domicilio. El Gobierno señaló que el Sr. González no tuvo queja sobre el procedimiento y confirmó que no había sido objeto de malos tratos y en la actualidad no se encontraba privado de la libertad. Además informó de que el caso del Sindicato de Pequeños y Medianos Agricultores de Sucre había sido presentado para análisis por parte del Comité de Reglamentación y Evaluación de Riesgos y que el Gobierno seguirá atento al resultado de las investigaciones, al respecto de lo cual informará a la Representante Especial.

Seguimiento de comunicaciones transmitidas previamente

116. Por carta de 7 de enero de 2003, el Gobierno respondió a un llamamiento enviado por la Representante Especial junto con el Relator Especial sobre la situación de los defensores de los derechos humanos de los indígenas y el Relator Especial sobre la cuestión de la tortura el 5 de junio de 2002 sobre **Rigoberto Medina Dagua** y **Wellinton Medina Dagua**. El Gobierno informó que el Ministerio del Interior requirió mediante oficio a la Oficina de Derechos

Humanos del Ministerio de Defensa Nacional y a la Fiscalía de la Nación que se verificara la información. Según la Procuraduría General de la Nación se adelantó investigación disciplinaria en la Delegada Disciplinaria para los Derechos Humanos, la cual se encontraba en etapa de indagación preliminar. El Gobierno informó igualmente que la Personería Municipal de Jamundi recepcionó declaración juramentada de Rigoberto Medina Dagua y Wellington Medina Dagua, dentro del procedimiento de investigación de carácter averiguatorio por presunta falta disciplinaria.

117. Por carta de 15 de enero de 2003, el Gobierno respondió al llamamiento enviado por la Representante Especial juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Relatora Especial sobre la violencia contra la mujer el 21 de noviembre de 2002. El Gobierno informó de que el Programa Presidencial para los Derechos Humanos junto con la Procuraduría General de la Nación venían haciendo un trabajo de sensibilización con las autoridades locales y que ya decidieron adoptar medidas de seguridad para la sede de la **OFF** en Barrancabermeja y desarrollar actividades para fomentar la cultura de seguridad ciudadana en general. Además se comprometió a fortalecer la lucha contra la impunidad. Afirmó que esta acción tuvo como finalidad lograr el reconocimiento del trabajo de la OFF y el respeto por la vida y por la labor que adelantan sus miembros.

118. Por carta de 20 de febrero de 2003, el Gobierno proporcionó más información sobre la carta de alegación enviada por la Representante Especial el 7 de octubre de 2002 sobre los casos de la **Asociación de Familiares de Detenidos Desaparecidos (ASFADDES), Daniel Ernesto Prado; OFF, Yolanda Becerra, Dora Guzmán y Gloria Ampara Suárez; Comité Permanente para la Defensa de los Derechos Humanos (COMPERDH), Ernesto Amezquita Camacho y Luis Jairo Ramírez**. El Gobierno informó que el 22 de noviembre de 2002 a Daniel Ernesto Prado le fue aprobado un esquema protectorio individual auxilio por el Comité de Reglamentación y Evaluación de Riesgos. Informó que no fue posible adelantar un estudio de nivel de riesgo para Yolanda Becerra ya que ella no había accedido a que se le efectuara dicho estudio. La Oficina de Protección Especial solicitó al Departamento Administrativo de Seguridad (DAS), seccional de Santander, el 10 de diciembre de 2001 la adopción de mecanismos preventivos para Dora Guzmán y Gloria Ampara Suárez. Informó que Ernesto Amezquita Camacho a la fecha residía fuera del país y que no hubo registros de actuaciones institucionales en el entorno de Luis Jairo Ramírez.

119. Por carta de 25 de febrero de 2003, el Gobierno respondió al llamamiento urgente enviado por la Representante Especial juntamente con el Relator Especial sobre la cuestión de la tortura y el Presidente-Relator del Grupo de trabajo sobre la Detención Arbitraria el 2 de diciembre de 2002 en relación con **Telberto González**. El Gobierno confirmó que fue retenido el 31 de octubre de 2002. La situación jurídica se resolvió con detención preventiva sin beneficio de excarcelación. Sin embargo, en atención a su edad, se consideró pertinente cambiar su sitio de reclusión por el lugar de su domicilio. El Fiscal 10 Seccional de Corozal, Sucre, ordenó suspender la detención preventiva domiciliaria. Durante la indagatoria, Telberto González fue asistido por funcionarios de la Defensoría del Pueblo regional y de la Procuradora Judicial 299 Penal. El Gobierno aseguró que según afirmó Telberto González, no fue objeto de malos tratos. Cuando el Gobierno proporcionó esta información, ya se encontraba en libertad.

120. Por carta de 25 de febrero de 2003, el Gobierno respondió a la carta de alegación enviada por la Representante Especial el 3 de octubre de 2002 juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias en relación con el homicidio de **Ángela Yesenia Briñez**. El Gobierno precisó que no se ha presentado ninguna denuncia. Asimismo se informó que la investigación por tales hechos se encuentra en la etapa de pruebas, habiéndose identificado como autor a un miembro del Frente 21 de las FARC que opera en la zona de Playa Rica y Roncesvalles, el cual fue declarado persona ausente. El proceso continúa en la fase de instrucción. También informó sobre el homicidio de **Ana Ruby Urrego**, ocurrido el 3 de octubre de 2001. Asimismo informó de que no se habría presentado denuncia, por lo que el trámite de la investigación se habría iniciado de oficio. Tampoco se habría dado inicio a la etapa de instrucción por cuanto no existe medio probatorio que amerite la iniciación de la acción penal. Además proporcionó información sobre el homicidio de **Jorge Freite Romero**. Informó que a la fecha, la investigación se estaba realizando en la Unidad de Derechos Humanos de la Fiscalía General de la Nación.

121. Por carta de 2 de abril de 2003, el Gobierno respondió al llamamiento enviado por la Representante Especial el 7 de octubre de 2002 en relación con las presuntas amenazas recibidas por **Ernesto Amezquita Camacho**, miembro de COMPERDH. El Gobierno informó de que una investigación oficial está pendiente, a través de la cual se establecerán las responsabilidades de las presuntas violaciones.

122. Por carta de 2 de abril de 2003, el Gobierno respondió a la carta de alegación enviada por la Representante Especial juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias sobre los casos de **Difanol Sierra Vargas, Aury Sara Murrugo, Luis Antonio Castro Aguirre, Oswaldo Moreno Ibagué y Hernán de Jesús Parra**. El Gobierno informó que investigaciones seguían adelante en todos los casos. En el caso de Difanol Sierra Vargas todavía no se había podido identificar a los presuntos responsables del homicidio ni tampoco el cuerpo u organismo al que pertenecen. En el caso de Aury Sara Murrugo se confirmó que los presuntos responsables provenían de las AUC y que se había proferido una orden de captura contra tres personas. En cuanto los casos de Luis Antonio Castro Aguirre, Oswaldo Moreno Ibagué y Hernán de Jesús Parra, informó de que hasta la fecha no se había logrado identificar a los autores de dichos homicidios.

123. Por carta fechada el 28 de noviembre de 2003, el Gobierno respondió al llamamiento urgente enviado por la Representante Especial el 7 de octubre de 2003 sobre la situación de **Oswal Moreno Ibagué y Jorge Adolfo Freytter Romero**. Informó que el asesinato de Oswal Moreno Ibagué se encuentra en estudio preliminar en la Procuraduría Delegada Disciplinaria Derechos Humanos. Con respecto al asesinato de Jorge Freytter Romero, informó que mediante resolución de octubre de 2001, la Dirección Nacional de Fiscalías dispuso la remisión de la actuación adelantada con ocasión del homicidio de manera inmediata la Unidad Nacional de Derechos Humanos. El Gobierno confirmó que seguirá atento al resultado de las investigaciones y que informará oportunamente a la Representante Especial.

124. Por carta de 17 de diciembre de 2002, el Gobierno respondió a una comunicación enviada por la Representante Especial juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias el 10 de diciembre de 2002 sobre **Rafael Jaimes Parra**. El Gobierno informó que a la fecha la investigación se encontraba en etapa de instrucción pero

que ya se había identificado a dos presuntos responsables del homicidio, contra quienes se profirió orden de captura. El Gobierno se comprometió a seguir atento al resultado de las investigaciones e informar oportunamente a la Representante Especial.

Observaciones

125. La Representante Especial quisiera agradecer las respuestas del Gobierno y las acciones tomadas por las autoridades. Lamenta no haber recibido respuestas a las otras tres comunicaciones transmitidas este año. La Representante Especial está muy preocupada por la cantidad de supuestos actos de violencia y de amenazas de muerte contra los defensores de derechos humanos, especialmente los cometidos por grupos paramilitares.

Costa Rica

Seguimiento de comunicaciones transmitidas previamente

126. Por carta de 6 de enero de 2003 el Gobierno respondió a la comunicación enviada por la Representante Especial el 25 de noviembre de 2002 sobre las amenazas e intimidaciones de que habrían sido objeto los funcionarios de la ONG **Casa Alianza**. Según el Gobierno, se impartieron órdenes para que oficiales de la policía especial de apoyo brinden acompañamiento a las personas amenazadas las 24 horas del día, incluidos los fines de semana, hasta fecha no definida.

Cuba

Comunicaciones enviadas

127. El 14 de enero de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión en relación con la detención de **Oscar Elías Biscet, Guido Sigler Amaya, Ariel Sigler Amaya, Enrique Pérez Hernández, Juan Felipe de la Torre Resqueijo, José Antonio Pérez Morel, Yoenis Junco Sardiñas, Yosvany Junco Sardiñas, Justo Julio Sierra Silva, Julián Rodríguez Trujillo, Virgilio Marante Guelmis, Orlando Zapata Tamayo, Luis Góngora Pérez, Armando Rodiles Rebilla, Raúl Arencibia Fajardo, Pablo Hernández Mayarí y Juan Antonio Agüero Pérez**. De acuerdo con las informaciones recibidas, estas personas fueron detenidas y golpeadas el 8 de diciembre de 2002 en la Avenida de Acosta, en la barriada de Lawtown en La Habana, cuando participaban en un encuentro pacífico en el que el Sr. Biscet impartía clases sobre derechos humanos. Cabe recordar que en el pasado el Sr. Biscet habría sido detenido por sus actividades educativas en el área de los derechos humanos y que desde su liberación impartía clases, como la que tuvo lugar el 8 de diciembre, sobre esta materia. Los informes agregan que el Sr. Biscet estaría detenido en la Prisión Combinado del Este. El ministerio público lo habría acusado de desorden y mal comportamiento. Virgilio Marante se encontraría en la Prisión 1580, Orlando Zapata Tamayo en la Prisión Guanajay y Raúl Arencibia Fajardo en la de Valle Grande. De acuerdo con las informaciones recibidas, ya habrían sido liberados Armando Rodiles Rebilla, Pablo Hernández

Mayarí, Juan Antonio Agüero Pérez, Juan Felipe de la Torre Resqueijo, Yoenis Junco Sardiñas y Yosvany Junco Sardiñas.

128. El 19 de mayo de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y el Relator Especial sobre la independencia de magistrados y abogados en relación con un grupo de 78 personas, entre ellas defensores de derechos humanos, sindicalistas, periodistas y activistas políticos, que habrían sido arrestadas y condenadas por su oposición a las políticas del Gobierno. Muchas de las personas mencionadas en el llamamiento serían conocidas por las actividades que realizan en favor de la promoción y la protección de los derechos humanos en Cuba. Según las informaciones recibidas, el Gobierno los habría acusado de colaborar con una potencia extranjera para socavar la integridad del Estado. En este contexto recordamos el llamamiento urgente enviado el 20 de marzo de 2003 por el Presidente-Relator del Grupo de Trabajo de sobre la Detención Arbitraria, el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y el Relator Especial sobre la cuestión de la tortura en el que se señala la información recibida sobre la presunta detención de varias de las personas mencionadas en la lista proporcionada en anexo [en el original]. Según las informaciones recibidas, las 78 personas habrían sido arrestadas a partir del 18 de marzo de 2003 y habrían sido procesadas en juicios sumarios y a puerta cerrada que tuvieron lugar entre los días 3 y 7 de abril. Bajo el marco de la Ley de Protección de la Independencia Nacional y Economía de Cuba y la Ley de Reafirmación de la Dignidad y Soberanía Cubanas, 75 de las personas detenidas habrían recibido sentencias que varían de 6 a 28 años de encarcelamiento, mientras que otras 3 se encontrarían bajo arresto domiciliario.

129. El 28 de noviembre de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión con respecto a la situación de **Oscar Espinosa Chepe**, que había sido objeto de un llamamiento urgente conjunto enviado por el Relator Especial sobre la cuestión de la tortura, el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y expresión y el Presidente-Relator del Grupo de Trabajo sobre la Detención Arbitraria el 21 de julio de 2003. El caso de Oscar Espinosa Chepe también fue considerado por el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y expresión, el Relator Especial sobre la independencia de los magistrados y abogados y la Representante Especial en su llamamiento conjunto con fecha de 19 de mayo de 2003. En este contexto, se toma nota de las informaciones proporcionadas sobre este caso por el Gobierno de Cuba a través de sus comunicaciones del 27 de mayo y 6 de octubre de 2003. Recientemente, se han recibido nuevas alegaciones sobre el estado de salud de Oscar Espinosa Chepe, según las cuales sufriría de un trastorno hepático crónico, una inflamación crónica y agravada del estómago y el duodeno, problemas hepáticos agudos así como hipertensión. De acuerdo con las informaciones recibidas, permanecería recluido en una celda de aislamiento de la Prisión Militar Carlos J. Finlay con las luces permanentemente encendidas. No se le permitiría hacer uso del teléfono ni recibir o enviar correspondencia. Sus familiares habrían sido notificados que podrán visitarlo “dependiendo de cómo se comporten”. Se alega que dicha condición se podría referir a las declaraciones realizadas por la esposa de Oscar Espinosa Chepe a medios de comunicación internacionales. La familia se habría quejado de la supuesta falta de información proporcionada sobre el estado de salud del preso y sobre el tratamiento recibido. Se habría continuado a expresar preocupación por la presunta ausencia de atención médica adecuada.

130. El 3 de marzo de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, el Relator Especial sobre la cuestión de la tortura y el Presidente-Relator del Grupo de Trabajo sobre la Detención Arbitraria con respecto a la situación de **Leonardo Miguel Bruzón Ávila**, presidente de la organización Movimiento Pro Derechos Humanos 24 de Febrero, quien habría sido detenido el 23 de febrero de 2002, supuestamente para impedir su participación en las actividades de conmemoración de los hechos ocurridos el 24 de febrero de 1996, fecha en que dos aviones en los que viajaba un grupo de cubanos en el exilio fueron abatidos por la Fuerza Aérea cubana. Desde entonces, Leonardo Bruzón habría permanecido detenido sin que se le hubiera imputado ningún cargo ni se hubiera fijado fecha para su juicio. El 30 de octubre de 2002, el Relator Especial sobre la cuestión de la tortura transmitió un llamamiento en relación a su situación, pero no ha recibido respuesta alguna por parte del Gobierno. Leonardo Bruzón habría empezado una huelga de hambre el 7 de diciembre de 2002. Se alega que se le ha negado el tratamiento médico especializado que requiere su delicada salud. Los síntomas que padecería incluyen una severa pérdida de peso, fiebre, debilidad, hematomas y problemas digestivos, además de trastornos neurológicos y espasmos involuntarios en los brazos. Actualmente se encontraría recluido en una celda de castigo de la prisión de Combinado del Este que mediría tres por tres metros y que estaría constantemente inundada a causa de una fuga de agua. Se le habrían suspendido sus derechos a salir al aire libre y a recibir visitas de sus familiares. Debido a su frágil estado de salud, se teme por su integridad física si no se toman unas medidas médicas rápidas y adecuadas.

131. El 8 de septiembre de 2003, la Representante Especial envió un llamamiento urgente con respecto al caso de **Elizardo Sánchez Cruz**. De acuerdo con la información recibida, Elizardo Sánchez Cruz habría sido invitado a participar en la conferencia bianual sobre defensores de los derechos humanos que organiza Frontline, una ONG con sede en Dublín (Irlanda) que trabaja en la defensa de los defensores de los derechos humanos. La conferencia debería celebrarse entre el 10 y el 12 de septiembre de 2003 en Dublín. Elizardo Sánchez Cruz habría solicitado el correspondiente permiso para salir de Cuba al Ministro del Interior. También habría reservado un vuelo al efecto para el día 3 de septiembre de 2003. Se informa de que el pertinente permiso de salida le habría sido denegado el día 2 de septiembre por lo que no habría podido tomar el vuelo reservado.

Alegaciones

132. La Representante Especial recibió información relacionada con presuntos actos de intimidación contra integrantes de la **Fundación Cubana de Derechos Humanos (FCDH)**, el 8 de marzo de 2001, en Ciego de Avila. Según la información proporcionada, más de 30 integrantes de dicha organización habrían intentado asistir a la reunión ordinaria mensual de la Secretaría Nacional, pero habrían sido impedidos por las fuerzas combinadas de la Policía Nacional Revolucionaria y la Policía Política. Dichas fuerzas habrían procedido al arresto de varios integrantes de la FCDH, les habrían levantado actas de advertencia o acusado de asociación y reunión ilícitas. Otros habrían sido expulsados de Ciego de Avila o habrían tenido que pagar multas. El 5 de abril de 2001, en Placetas Villa Clara, la Policía Política habría acordonado la casa donde se habría organizado una reunión de la FCDH, para impedir que los integrantes de la organización participen en la misma. Los activistas habrían sido obligados a

regresar a sus domicilios y algunos habrían sido arrestados posteriormente para expulsarlos hacia otros poblados.

Comunicaciones recibidas

133. Por carta fechada el 3 de marzo, el Gobierno contestó a la comunicación transmitida por la Representante Especial sobre la situación de Leonardo Miguel Bruzon Avila. El Gobierno informó que la persona nombrada fue detenida por la comisión de actos constitutivos de delito en virtud de la legislación penal vigente antes de la comisión de los mismos y gozó de todos los beneficios del debido proceso.

134. Por carta fechada el 27 de mayo, el Gobierno contestó a la comunicación transmitida por la Representante Especial a propósito de la situación de los 26 defensores de derechos humanos. El Gobierno informó que ninguna de las personas referidas en la comunicación se pudiera calificar como defensor de derechos humanos y que fueron sancionadas por actos subversivos por tribunales competentes tras haberse cumplido las garantías del debido proceso.

135. Por carta fechada el 2 de septiembre, el Gobierno contestó a la comunicación transmitida por la Representante Especial sobre el caso de **Oscar Elías Biscet**. El Gobierno informó de que no se trató de un encuentro pacífico sino de una grave incidencia de desorden público, la cual fue instigada por Oscar Elías Biscet y por la cual fue sancionado por los tribunales competentes a 20 años de privación de libertad por el delito de instigación para delinquir y otras tipificaciones delictivas directamente dirigidas a lesionar la soberanía y el orden constitucional de la nación. Señaló que hasta el momento de la sanción, el Sr. Biscet compartió la celda con dos personas y además, según las investigaciones realizadas durante la detención, traslado y permanencia en la unidad de policía, se pudo constatar que fueron respetados los requisitos del debido proceso y se observaron estrictamente las normas de procedimiento penal vigentes. Además señaló que las autoridades contaron con abundantes elementos probatorios de que el Sr. Biscet había estado ejecutando actividades subversivas durante varios años, instruidas y financiadas no solo por el Gobierno norteamericano sino por organizaciones terroristas de origen cubano radicales en la isla que, por su parte, habían causado graves daños económicos al país y la pérdida o mutilación permanente de casi 5.000 cubanos y cubanas.

136. El 6 de octubre de 2003, el Gobierno respondió a la comunicación enviada por la Representante Especial sobre **Elizardo Sánchez Santa Cruz**. El Gobierno entregó un ejemplar de un libro titulado *El Camaján* escrito por dos periodistas cubanas, lo cual manifestó que la única intención política de Elizardo Sánchez Santa Cruz era la del dinero y de la ganancia. Según el libro, las invitaciones, las giras internacionales, los premios y sus contactos con organizaciones de derechos humanos sirvieron solo para ganar favores y recursos. Señaló que la misión de Elizardo Sánchez Santa Cruz era entregar información –falsa o manipulada– y así transmitir preocupaciones y ganar el favor de la sociedad norteamericana.

Seguimiento de comunicaciones transmitidas previamente

137. Por carta de 28 de mayo de 2003, el Gobierno respondió a la comunicación enviada el 25 de abril de 2002 por la Representante Especial juntamente con el Relator Especial sobre la cuestión de la tortura y el Relator Especial sobre la promoción y protección del derecho a la

libertad de opinión y de expresión. Señaló que ninguno de los nombres mencionados en la denuncia se correspondió con el de personas acreditadas como periodistas en Cuba. Informó que **Juan Carlos González Leyva** y el resto de los autores de los hechos descritos se encontraban en prisión preventiva mientras se avanza en el expediente de fase preparatoria por los delitos de desorden público, resistencia y desacato. Confirmó que contarán sin excepción con todos los beneficios del debido proceso y que, atendiendo a la discapacidad de Juan Carlos González Leyva, se mantiene en las instalaciones del órgano de instrucción judicial de la provincia de Holguín, donde existían mejores condiciones para brindarle un tratamiento adecuado.

Observaciones

138. La Representante Especial quisiera agradecer al Gobierno las respuestas recibidas. La Representante Especial lamenta la falta de medidas por las autoridades en favor de los defensores de derechos humanos citados y lamenta igualmente no haber recibido respuestas a las otras comunicaciones transmitidas este año.

Democratic Republic of Congo

Communications envoyées

139. Le 22 avril 2003, la Représentante spéciale a envoyé un appel urgent conjointement avec le Président-Rapporteur du Groupe de travail sur la détention arbitraire, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Rapporteuse spéciale sur la situation des droits de l'homme en République Démocratique du Congo, concernant l'arrestation de M. **Prince Kumwamba N'sapu**, directeur administratif et financier adjoint de la section du Katanga de l'Association africaine de défense des droits de l'homme (ASADHO) et M. **Grégoire Mulamba Tshisakamba**, secrétaire général du Centre des droits de l'homme et du droit humanitaire (CDH), le 16 avril 2003. Selon les informations reçues, le 15 avril 2003, ces organisations, conjointement avec la Commission de vulgarisation des droits de l'homme et du développement (CVDHO), auraient publié un communiqué de presse sur l'inconstitutionnalité de la Cour d'ordre militaire (COM). Le communiqué aurait été distribué le 15 avril avant l'audience de la COM. Le même jour, plusieurs personnes en possession de ce communiqué de presse auraient été arrêtées à la sortie de l'audience. Informés de ces arrestations, Prince Kumwamba N'sapu et Grégoire Mulamba Tshisakamba se seraient rendus à la COM de Lubumbashi le 16 avril 2003 afin de vérifier ces informations. Ils auraient alors été arrêtés le 16 avril et emmenés à la prison de Kassapa. Ils devaient être jugés le 17 avril 2003 par la COM pour «incitation à la rébellion», de même que les personnes arrêtées le 15 avril.

140. Le 2 juillet 2003, la Représentante Spéciale a envoyé un appel urgent conjointement avec le Rapporteur spécial sur la question de la torture et la Rapporteuse spéciale sur la situation des droits de l'homme en République Démocratique du Congo concernant **Donatien Kisangani**, activiste et administrateur financier de SEDI, une ONG pour la promotion et protection des droits de l'homme à Uvira. Il aurait été arrêté le 27 juin 2003 près de la frontière burundaise et emmené aux bureaux de la sécurité où un officier, dont le nom nous a été communiqué, l'aurait giflé et aurait essayé de l'étrangler avec une corde. Il aurait été accusé par les services de sécurité d'appartenir au SLAP, un mouvement supposément pro-Maï- Maï. Il serait détenu dans un

cachot militaire dans des conditions inhumaines et aurait entre autres des difficultés pour manger dues à des douleurs au cou.

141. Le 20 octobre 2003, 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 la question de la torture et la Rapporteuse spéciale sur la situation des droits de l'homme en République Démocratique du Congo, a envoyé une lettre d'allégation concernant **Timothée Mbuya**, directeur de publication de section du Katanga de l'ASADHO, **Jean Claude Bakatunyingela**, chargé de l'environnement de la même association, et **René Ntumba, Jean Baptiste Kasongo, Justin Kashala, Agnès Manyonga et Martin Tshibusu**, membres du Groupe d'actions non-violence évangélique (GANVE) ainsi que **Mick Kapembe**, de l'Association des enseignants du Congo (AECO). Ces personnes auraient été arrêtées le 8 septembre 2003 à Lubumbashi par la police nationale alors qu'elles participaient à une manifestation. Au cours de leur arrestation, elles auraient été battues par les forces de l'ordre, détenues au poste de police de Lubumbashi, et libérées le lendemain. La manifestation aurait été organisée par un collectif d'ONG composé du GANVE, en association avec ASADHO, AECO et le syndicat des travailleurs de GECAMINE pour la défense du droit à l'enseignement et contre les frais d'intervention ponctuelle, frais supplémentaires aux frais d'inscriptions annuels payés par les parents d'élèves.

142. Le 20 octobre 2003, la Représentante spéciale a envoyé une lettre d'allégation sur les cas suivants:

143. **Descartes Mponge**, animateur d'Action des chrétiens activistes des droits de l'homme de Shabunda (ACADHOSHA), une organisation qui aide des victimes de viol à accéder aux soins médicaux et dénonce les violations des droits humains, aurait été arrêté le 24 mars 2003 à Bukavu par le Rassemblement congolais pour la démocratie de Goma (RDC-Goma) et été détenu pendant deux jours au cachot de la police de sécurité et de renseignements. Il n'aurait été ni présenté à un juge ni informé des raisons de sa détention. Des craintes ont été exprimées que Descartes Mponge n'ait été visé à cause de son travail pour ACADHOSHA.

144. **Valérien N'zchanzchu Kenda Kenda**, membre de la division du Nord-Kivu de la Société Civile, un réseau d'ONG du Sud-Kivu qui organise la Caravane de la paix, une campagne nationale de réconciliation, aurait été arrêté le 7 mai 2003 par le RCD-Goma après avoir demandé une autorisation pour organiser une manifestation en faveur de la Caravane de la paix. Il aurait été détenu au cachot de la sécurité provinciale du RCD pendant douze jours.

145. **Donatien Nyembo Kimuni**, correspondant du journal « La Tribune » à Lubumbashi, qui avait déjà fait l'objet d'un appel urgent le 22 juillet 2003 par 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, aurait publié un article dans La Tribune le 5 juin 2003 sur les mauvaises conditions de travail des mineurs à Likasi, qui auraient provoqué la mort par intoxication de certains. L'article aurait fondé son propos sur un rapport de l'entreprise publique GECAMINE et les témoignages des mineurs. Le 11 juin, Donatien Nyembo Kimuni aurait été condamné par le tribunal de paix de Likasi à cinq années de prison pour diffamation criminelle.

146. Le 7 avril 2003, **Raphaël Wakenge**, coordinateur de l'Initiative congolaise pour la justice et la paix (ICJP), une organisation qui travaille pour les droits humains et la promotion de la justice sociale et de la paix, aurait été menacé d'arrestation par des militaires du RCD sur l'avenue Lumumba à Bukavu. Les militaires auraient trouvé suspect qu'un activiste se promène dans la ville un jour après des combats entre le RCD et le groupe armé Mudundu 40 à Bukavu. Des craintes ont été exprimées que Raphaël Wakenge n'ait été visé à cause de son travail en faveur des droits humains.

147. Le 23 octobre 2003, la Représentante spéciale, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé une allégation au Gouvernement de la République Démocratique du Congo concernant M^e **Charles Katambay**, membre du Groupe du Sans Voix (GSV), une organisation de défense des droits de l'homme dans le territoire d'Uvira, membre actif du barreau et d'une association de la défense des juges. Selon les informations reçues, le 25 mai 2003, un militaire du RCD-Goma l'aurait tué par balle devant sa maison d'Uvira. Des craintes ont été exprimées qu'il aurait été visé en raison de son travail en faveur des droits humains.

148. Le 28 octobre 2003, la Représentante spéciale a envoyé un appel urgent concernant la situation de **Polycarpe Kakule Byanzire**, chef d'antenne du Centre de recherche sur l'environnement, la démocratie et les droits de l'homme (CREDDHO) à Vitshumbi. Selon les informations reçues, en mars 2003, cette ONG des droits humains qui travaille particulièrement sur la torture et les arrestations arbitraires se serait opposé au paiement d'une « ration militaire » imposée par les autorités provinciales à la population, jugée illégale. Le 17 mars 2003, le chef de collectivité de Bwito et quatre militaires seraient allés au domicile de Polycarpe Kakule Byanzire afin de vérifier s'il avait payé la ration militaire, ce qu'il aurait eu fait. Le chef de collectivité l'aurait néanmoins menacé de mort à cause de son opposition et celle de son organisation au paiement de cette ration militaire.

149. Le 4 novembre 2003 la Représentante spéciale a envoyé un appel urgent concernant la détention supposée de **Willys Mulindilwa Luendo**, président de la division de Walikale de la Société Civile, et de **Okiwa Anifa**, membre de Mungano wa Mama wa Walikale (MUMAWA), une organisation travaillant pour l'encadrement des femmes paysannes dans le domaine agricole et la défense des droits de la femme. Selon les informations reçues, le 17 septembre 2003, Willys Mulindilwa Luendo aurait accueilli une délégation de la MONUC à Walikale, et l'aurait aidé à organiser des entretiens avec des militants des droits humains du territoire. Le même jour, il aurait été arrêté sur l'ordre de l'assistant du sous-commandant de l'Armée nationale congolaise (ANC) du RCD-Goma pour les territoires de Masisi et de Walikale. Selon les informations reçues, Okiwa Anifa serait venue au cachot prendre des nouvelles de Willys Mulindilwa Luendo et pour demander sa mise en liberté. Elle aurait alors été arrêtée et mise dans le même cachot. Le 19 septembre 2003, ils auraient tous deux été libérés.

150. Le 4 novembre 2003, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la question de la torture, a envoyé une lettre d'allégation concernant **Pascal Kabungulu Kibembi** et **Betu Kajigi**, respectivement secrétaire exécutif et animateur de Héritiers de la Justice, une organisation des droits humains qui publie des rapports et des bulletins, organise la formation aux droits de l'homme et fournit un aide juridique, ainsi que concernant **Désire Kisuku Mwassa Bindi** et **Ngama Kasuku**, membres du Comité des facilitateurs des grands lacs

(CFGL), une organisation associée avec Héritiers de la Justice à Kamitatu. Selon les informations reçues, Pascal Kabungulu Kibembi et Betu Kajigi auraient été menacés de mort, les 19 et 22 mai 2003 respectivement, par des militaires du RCD. Le 29 mai 2003, **Désire Kisuku Mwassa Bindi** et **Ngama Kasuku** auraient été arrêtés par le RCD-Goma, supposément pour avoir donné des renseignements aux Héritiers de la Justice sur l'exploitation illégale supposée des matières premières et des chercheurs d'or par des militaires du RCD à Kamituga dans le territoire de Mwenga. Des craintes ont été exprimées que ces menaces seraient liées au travail de Pascal Kabungulu Kibembi et Betu Kajigi avec Héritiers de la Justice, et en particulier à un bulletin que l'organisation aurait publié le 24 janvier 2003 sur l'exaction supposée du commandant du RCD à Kamituga.

151. Le 4 novembre 2003, la Représentante spéciale, conjointement avec et le Rapporteur spécial sur la question de la torture, a envoyé une lettre d'allégation concernant **Richard Muhindo Bayunda**, directeur général du CREDDHO, qui aurait été détenu et passé à tabac le 29 avril 2003 dans un cachot de la police à Goma. Selon les renseignements reçus, le 26 avril 2003, le RCD-Goma aurait organisé, en signe de protestation contre la récente nomination d'un des vice-présidents de la République, une manifestation publique et aurait déclaré la journée chômée. A partir du 28 avril 2003, certains commerçants, en particulier des pharmaciens, auraient fait l'objet d'interpellations, d'arrestations et d'amendes par le chef de poste urbain de la sécurité, pour avoir travaillé la journée du 26 avril 2003. Le 29 avril 2003, Richard Muhindo Bayunda serait arrivé à Goma pour enquêter sur ces faits et se serait présenté, muni d'une convocation, au bureau de la sécurité urbaine en tant que représentant d'un pharmacien. Il lui aurait été exigé de payer cinq dollars comme frais de convocation, ce qu'il aurait refusé de faire arguant que la loi congolaise ne le requerrait pas. Sa carte d'identité et ses affaires auraient alors été confisquées. Le chef du poste l'aurait giflé à plusieurs reprises et donné l'ordre qu'il soit détenu et torturé par les policiers pour le punir d'avoir protesté. Il aurait été maintenu en détention pendant trois heures au cachot du commissariat de police, où il aurait été passé à tabac et aurait reçu des menaces.

152. Le 12 novembre 2003, la Représentante spéciale a envoyé un appel urgent, conjointement avec la Rapporteuse spéciale sur la situation des droits de l'homme en République Démocratique du Congo, concernant **Bibiche Ntibonera**, directrice de l'ONG SOS-femmes battues, travaillant en faveur des femmes battues et du Bureau d'assistance et d'intégration des orphelins et des déshérités (BAIOD) et Jeunes sans frontières (JSF), deux organisations jumelées et membres du Collectif des jeunes du Sud-Kivu (COJESKI). Selon les informations reçues, le 12 avril 2003, alors qu'elle en possession d'une lettre de la société civile qui condamnait le récent combat entre le RCD-Goma et un groupe armé s'appellant le Mududndu 40, Bibiche Ntibonera aurait été arrêtée et battue par des soldats du RCD-Goma. Le 25 avril 2003, elle aurait été évacuée à l'hôpital à Kinshasa à cause des séquelles de cet incident. Durant la même période, les agents du RCD-Goma auraient, à plusieurs reprises, fouillé les bureaux de ces organisations, et confisqué leur panneau d'affichage, et ces incidents auraient conduit à la fermeture de leurs bureaux. Des craintes ont également été exprimées ces organisations auraient également été visées pour avoir signé un document publié par COJESKI critique du Gouverneur de la province du Kivu-Sud, supposément condamné par la justice dans l'assassinat du Pré.

153. Le 17 novembre 2002, **Jeredy Kambasu**, chef d'Antenne du CREDDHO à Nyakakoma, aurait été convoqué par le chef de poste adjoint de la Direction générale de migration (DGM) au

bureau de la DGM à Ishasha. Il lui aurait demandé s'il avait une carte de service lui permettant d'exercer ses fonctions de défenseur à Nyakakoma. Après l'entretien, le chef de poste adjoint aurait détenu Jeredy Kambasu au motif de défendre illégalement les droits de l'homme à Nyakakoma, car il n'aurait pas eu l'autorisation du Directeur général du CREDDHO. Il aurait été libéré le 18 novembre 2002, après avoir payé 5 dollars. Des craintes ont été exprimées que Jeredy Kambasu aurait été visé à cause de son travail avec CREDDHO.

Communications reçues

154. Par lettre datée du 7 novembre 2003, le Gouvernement a répondu à l'appel urgent envoyé le 20 octobre 2003 concernant les cas de **Timothée Mbuya, Jean Claude Bakatunyingela, René Ntumba, Jean Baptiste Kasongo, Justin Kashala, Agnès Manyonga, Martin Tshitsu et Mick Kapemba**. Le Gouvernement a informé la Représentante spéciale que la lettre a été transmise aux autorités compétentes à Kinshasa. Le Gouvernement sollicite par conséquent un nouveau délai pour les réponses aux préoccupations, mais réitère le grand intérêt que la République Démocratique du Congo porte au respect des droits de l'homme, conformément aux différents instruments qu'il a ratifié.

Observations

155. La Représentante spéciale remercie le Gouvernement pour sa réponse et l'invite à lui faire parvenir ces informations ainsi que ses réponses aux communications envoyées dans les meilleurs délais. Elle demeure vivement préoccupée par les nombreuses allégations d'arrestations et de mauvais traitements perpétrés par les autorités contre les défenseurs des droits de l'homme et par les restrictions apparentes à la liberté d'expression qu'elles génèrent. Elle invite le Gouvernement à prendre toutes les mesures nécessaires pour assurer le respect de droits énoncés dans la Déclaration sur les défenseurs des droits de l'homme.

Dominican Republic

Comunicaciones enviadas

156. La Representante Especial, juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Relator Especial sobre la cuestión de la tortura, recibió información en relación con actos de violencia supuestamente ocurridos el 11 de noviembre de 2003, en desarrollo de la jornada nacional de protesta pacífica contra la política económica del Gobierno convocada por la Coordinadora de unidad y lucha, la cual agrupa organizaciones populares sindicales y estudiantiles. Se habrían reportado enfrentamientos entre manifestantes y las fuerzas del orden en la ciudad de Santo Domingo. En otras ciudades como Bonao, Higüey, Santiago, Navarrete, Licey al Medio, Salcedo, Barahona, San Pedro de Macorís y Puerto Plata, el ejército y la policía habrían reprimido a los manifestantes con disparos de fusiles automáticos y escopetas. De acuerdo con la información recibida, como resultado de los mencionados enfrentamientos 7 personas habrían muerto, 60 habrían resultado heridas y otras 600 habrían sido detenidas. Entre los fallecidos se encontrarían, **Alberto Arquino Marte, David**

Pérez Vásquez, Ramón Romero Pérez, Daniel Martínez así como **un miembro de la policía nacional**. Igualmente preocupación fue expresada entorno al presunto arresto de 135 activistas miembros de la Coordinadora de unidad y lucha.

Observaciones

157. La Representante Especial lamenta no haber recibido una respuesta del Gobierno.

Ecuador

Comunicaciones enviadas

158. La Representante Especial fue informada de que la noche del 23 de agosto de 2002 desconocidos habrían allanado las oficinas de la **Fundación Regional del Asesoría en Derechos Humanos (INREDH)**, en Quito. Según la información proporcionada, quienes entraron en las oficinas de la Fundación habrían revisado los archivos informáticos y escritos en tres oficinas de la Fundación. Además habrían robado 2.500 dólares del escritorio del contador. Una denuncia formal habría sido presentada ante la policía judicial y el ministerio público por parte de la INREDH.

159. De acuerdo con la información recibida, el 7 de julio de 2002, sujetos no identificados habrían entrado en las oficinas de la **Auditoría Democrática Andina** en Quito, donde habrían accedido a los archivos y robado los documentos del caso Vicente Grijalva Bueno. Este caso fue presentado ante la Comisión Interamericana de Derechos Humanos en septiembre de 2001.

Observaciones

160. La Representante Especial lamenta no haber recibido respuestas del Gobierno.

Egypt

Communications Sent

161. On 18 June, the Special Representative sent an urgent appeal regarding the alleged refusal to register two Egyptian human rights NGOs - the New Woman Research Centre, an organization which researches violence against women, and the Land Centre for Human Rights - under the new NGO-related Law 84 of 2002. Both organizations reportedly applied for registration on 6 April 2003. The application by the New Woman Research Centre was reportedly denied on 9 June 2003, pursuant to a letter from the Security Directorate of Giza to the Giza Directorate of the Ministry of Social Affairs, which allegedly contained an unsubstantiated opinion that they should not be registered. The Land Centre for Human Rights allegedly received no reply from the Ministry of Social Affairs by the end of the 60-day period set forth in the law. It is alleged that the restrictions on freedom of association contained in the new law go further than those in Law No. 155 of 1999, which the Constitutional High Court had declared be unconstitutional in June 2000. Of particular concern are the wide-ranging powers

given to the Minister of Social Affairs, an administrative entity, to decide on registration, dissolution and seizure of assets of NGOs without a prior court ruling as well as the broad prohibition made under article 11 on NGOs from engaging in any political or trade-union activities, and the far-reaching State powers to block nominees to the board of directors of NGOs and funding from abroad.

162. On 12 August 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, transmitted an urgent appeal regarding **Ashraf Ibrahim**, an active member of the anti-war movement in Egypt, Secretary of the Egyptian Association on Health and Environmental Development and member of the non violent NGO the Popular Committee for Solidarity with the Palestinian Uprising. According to the information received, Ashraf Ibrahim was reportedly being held in incommunicado detention without official charge or trial in Mahkum Tora Prison, near Cairo. It was alleged that on 17 April 2003, the State Security Prosecution searched Ashraf Ibrahim's home and confiscated certain personal belongings, including his computer, electronic equipment and many of his books and papers. On 19 April 2003, Ashraf Ibrahim was allegedly detained when he reportedly presented himself before the State Security Investigations (SSI). The State Security Prosecution allegedly brought several accusations against him, including possessing and disseminating material which threatens public security and opinion and providing international human rights organizations with material harmful to Egypt's reputation. During interrogation sessions, he was reportedly questioned in connection with his participation in the demonstrations held on 20 and 21 March 2003 against the war in Iraq and with the downloading of material from the Internet, including from web sites of international human rights organizations and of the Arabic satellite news channel, al-Jazeera. Since his reported arrest, his detention has allegedly been renewed by the State Security Prosecution at regular 15-day intervals, and he was allegedly offered release in exchange for naming 20 other activists. It is also alleged that Ashraf Ibrahim has been on hunger strike since 30 July 2003, that his health has been deteriorating seriously and that he has been denied adequate medical treatment. According to the information received, around 7 August 2003, a prison doctor reportedly told Ashraf Ibrahim that he should be transferred to hospital.

163. On 2 October 2003, the Special Representative, in conjunction 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, transmitted a follow-up urgent appeal on the situation of **Ashraf Ibrahim**. According to recent information received, Ashraf Ibrahim's case was referred to a Higher Emergency State Security Court on 10 August 2003 on charges of belonging to an organization seeking to overthrow the Government and of disseminating false information abroad (articles 80(d) and 86 respectively of the Penal Code). His trial, along with that of other co-defendants, was scheduled to begin on 16 December 2003. Of particular concern is that the Higher Emergency State Security Court, a tribunal established under emergency law, allows no appeal to a higher judicial body and, as a result, a verdict can only be overturned or modified by the President of the Republic..

164. On 6 November 2003 the Special Representative transmitted a letter of allegation regarding the cases below.

165. **Ali Abd El Fatah**, Secretary- General of the Popular Committee of Solidarity with the Palestinian Intifada, an allegedly non-violent NGO, **Gamal Abd El Fatah Abd El Dayeim**, **Gamal Mady** and **Ahmed Abd El Hafez**, members of the same organization, **Ahmed Ali** and **Ashraf Ali**, owners of a printing house, **Manal Khaled**, an editor for an Egyptian TV station, and **Sameh Kamal**, a computer engineer, all of whom have reportedly been involved in a campaign against alleged killings committed by Israeli troops in the Palestinian occupied territories. According to the information received, on 5 May 2002, Manal Khaled and Sameh Kamal were reportedly arrested at El Tahrir Square by plain-clothes policemen and reportedly taken to Kasr El Neil Police Station. They were allegedly charged with holding documentation and publications disrupting public security. On 13 May 2002, the anti-drug squad from the Directorate of Cairo Security reportedly visited the home of Dr. Gamal Abd El Fatah Abd El Dayeim. They allegedly assaulted him, broke one the doors of the pharmacy which he reportedly owns. He was reportedly presented before the El Basateen Prosecution and charged with selling medicine, which had passed its expiry date, and with disseminating propaganda disrupting public security. He was reportedly released on 19 May 2002. In addition, according to the information received, on 14 May 2002, Ali Abd El Fatah, Gamal Mady, Ahmed Abd El Hafez, Khaled Souleman, Ahmed Ali and Ashraf Ali were reportedly arrested at their homes by members of the Alexandria State Security Investigation. They were reportedly beaten and insulted during arrest and brought before Cairo State Security Investigation and allegedly charged with publishing propaganda to disrupt public security. They were reportedly released on 24 September 2002. Concern has been expressed that these arrests may have occurred in connection with their reported intention to organize a peaceful demonstration on 15 May 2002 against alleged killings of Palestinians by Israeli troops in 1984.

166. **Gamal Abdel Aziz**, **Yasser Faraag** and **Zyad Abdel Mageed Zaki**, lawyers and members of the Committee of Freedom at the Bar Association, which works on lawyers' rights and provides legal assistance to those who cannot afford litigation costs. According to the information received, at noon on 22 March 2003, Gamal Abdel Aziz, Yasser Faraag and Zyad Abdel Mageed Zaki were reportedly arrested inside the Bar Association for participating in a demonstration against the war in Iraq which took place in Cairo earlier in the day. They were reportedly brought before a prosecutor in Al Azbakia and interrogated. They were then reportedly put in pre-trial detention and charged with participating in an assembly aiming at disturbing public order, with circulating publications disruptive of public order, and with resisting policemen. On 22 March 2003, they were reportedly referred to the Central Security camp, reportedly a detention centre for those arrested by the State Security Investigations. They then reportedly appeared before the Al Galaa group of courts and were allegedly sentenced to four days' detention, which was then extended to one-week imprisonment. They were released from El Khaleefa police station in Cairo on 1 April 2003.

Communications received

167. By letter dated 30 September 2003, the Government replied to the communication sent by the Special Representative regarding the situation of **Ashraf Ibrahim**. The Government informed the Special Representative that following a consultation with the Department of Public Prosecutions it could establish that Ashraf Ibrahim had not been subjected to any form of ill-treatment during his arrest and had been placed under full medical supervision during his hunger strike.

168. By letter dated 22 December 2003, the Government responded to the communication sent by the Special Representative on 6 November 2003. The Government indicated that an investigation had been conducted into the allegation that a number of people were beaten and tortured because of their opposition to the war against Iraq and their rejection of Israeli policies in the occupied territories. The Government stated that on 20 and 21 March 2003 a number of agents provocateurs gathered in two Cairo squares on the pretext of demonstrating their opposition against the war in Iraq but committed acts of vandalism and illegal offences, notably as destruction of public property, disruption of the traffic and assault of police officers. The Government mentioned that Yasser Faraag, Ziyad Abdel Mageed Zaki al-Alimi, Gamal Abel Aziz Id and Manal Ahmad Mustapha Khaled had been arrested pending the hearing of the Al Azbakiya precinct administrative case No. 1686 of 2002. Gamal Abd El Fatah Abd El Dayeim had been arrested and charged in the Higher State Security case 716.

Observations

169. The Special Representative thanks the Government for its response to the Ashraf Ibrahim case. She invites the Government to ensure that he is guaranteed a fair trial under regular judicial procedures. She regrets the absence of responses to her other communications. The Special Representative expresses her concern over reported provisions contained in NGO law 84 apparently restrictive of freedom of association. She is equally concerned by allegations of restrictions on defenders' right to freedom of assembly and to protest imposed on the basis of security needs. She is particularly concerned about the allegation of arrests by the security apparatus of defenders in relation to participation in protests. She would like to thank the Government for the interest it has shown in considering her request for an invitation to undertake an official visit and hopes her request will receive a favourable answer shortly.

El Salvador

Comunicaciones enviadas

170. El 27 de diciembre la Representante Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente con respecto a la seguridad de **Beatrice Alamanni de Carrillo**, Procuradora para la defensa de los derechos humanos, y personal de su oficina. De acuerdo con estas informaciones, desde el 16 de diciembre de 2002, Beatrice Alamanni de Carrillo habría recibido varias amenazas de muerte anónimas en su oficina a través de facsímiles indicando: "muerte a la Procuradora". Las amenazas podrían estar relacionadas con la intervención de la Procuradora en los incidentes ocurridos en la Penitenciaría Central La Esperanza, durante los que murieron dos agentes de la Policía Nacional Civil (PNC) y un reo. Según la información proporcionada, la Procuradora habría criticado públicamente la actuación y el operativo de la policía durante el amotinamiento. Asimismo, el Director de la PNC y el Fiscal General de la República habrían acusado a la Procuradora de obstruir la acción policial y por ende la habrían responsabilizado por la muerte de los policías. De acuerdo con las informaciones recibidas, miembros de la Procuraduría para la

Defensa de los Derechos Humanos (PDDH) estarían siendo hostigados e intimidados por miembros de la PNC desde que ocurrieron los hechos.

171. El 26 de mayo de 2003, la Representante Especial envió un llamamiento urgente con respecto a la situación de la **Comisión de Derechos Humanos de El Salvador** (CDHES) en el departamento de San Miguel, que habría sido saqueada y robada, y sobre la seguridad de los voluntarios de esta organización. Según la información recibida, el 7 de mayo de 2003, individuos desconocidos se habrían introducido en la oficina de la CDHES, ubicada en el departamento de San Miguel. Estos se habrían llevado documentación testimonial de violaciones de los derechos humanos, registro y datos personales de los voluntarios y también máquinas de escribir y demás material de oficina. Se informa que los voluntarios habrían denunciado el incidente ante la Fiscalía y la policía del departamento, pero, según la información recibida, no se habría dado ningún seguimiento a la demanda interpuesta. El 21 de mayo, el presidente de la CDHES, en una carta pública, habría expresado su preocupación sobre la seguridad de los voluntarios y de las personas que brindaron testimonio y habría exhortado a las autoridades a tomar las medidas necesarias para resolver este caso. Según la información recibida, este ataque podría estar relacionado con la actividad de la CDHES en favor de familias pobres en San Miguel para detener varios desalojos, especialmente de las familias que habitarían en la comunidad "El Jagüey", donde la Fuerza Armada Salvadoreña desearía construir una base para la Fuerza Aérea.

Comunicaciones recibidas

172. Por carta fechada el 3 de febrero, el Gobierno contestó a la comunicación transmitida por la Representante Especial en relación con **Beatrice Alamanni de Carrillo**. Informó que en relación con el delito de amenazas, de acuerdo con el artículo 26 del Código Procesal Penal, no se investiga de oficio sino a petición de la parte, por lo que para su persecución se necesita de la denuncia directa de la persona amenazada pero, hasta la fecha, la Procuradora no había interpuesto ninguna denuncia. Sin embargo, el Fiscal General y el Ministro de Gobernación, en notas dirigidas a la Procuradora, expresaron su preocupación por las amenazas recibidas por ella y ofrecieron respectivamente iniciar las investigaciones necesarias y reforzar su seguridad. Además informó que desde que tomó posesión de su cargo en 2001, la Procuradora ha contado con elementos policiales para su seguridad personal y la de su familia y que en las ocasiones en que ella solicitó el reforzamiento de su seguridad se le ha proporcionado pero, en relación con este caso, no se había recibido ninguna solicitud en tal sentido.

173. Por carta fechada el 28 de agosto, el Gobierno contestó a la comunicación transmitida por la Representante Especial en relación con la **CDHES** en el departamento de San Miguel. Informó que se procedió a iniciar una investigación del caso a través de la Fiscalía Regional de San Miguel pero hasta la fecha no se había podido establecer la responsabilidad de persona alguna ni el móvil del hecho. Sin embargo, afirmó que las autoridades correspondientes proceden oportunamente a la investigación y de esa manera no era cierta la afirmación de que no se habría dado ningún seguimiento o atención a la demanda interpuesta. Se aclaró además que "El Jagüey" era una propiedad del Estado donde existió una pista de aterrizaje activa y de esa manera, la afirmación de que el hecho denunciado "podría ser relacionado con la actividad de la CDHES a favor de familias pobres en San Miguel para detener varios desalojos, especialmente de las familias que habitarían en la comunidad 'El Jagüey' donde la Fuerza Armada Salvadoreña

desearía construir una base para la Fuerza Aérea” era sin fundamento. El Gobierno informó a la Representante Especial de que además existía en El Salvador un nuevo escenario en donde prevalece el respeto a los derechos humanos y a las libertades fundamentales y en el cual las ONG de derechos humanos gozan de amplia libertad para realizar sus funciones y de acceso a los mecanismos de procuración de justicia para casos de violaciones de los derechos humanos.

Observaciones

174. La Representante Especial quisiera agradecer las respuestas del Gobierno.

Gambia

Communications sent

175. On 18 July 2003, the Special Representative, in conjunction 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, transmitted a letter of allegation regarding information received that at least 14 people, including minors and **Omar Barrow**, a journalist and a Gambia Red Cross volunteer wearing a Red Cross insignia, were killed, and dozens injured, some severely, by security forces during demonstrations organized by the Gambian Students Union on 10 and 11 April 2000 in Banjul, Brikama and other towns. Security forces reportedly used excessive and indiscriminate force to break up the demonstrations, which were allegedly held in protest against the death allegedly after torture of **Ebrima Barry**, a student, by members of the Brikama Fire Service and the rape of a 13-year-old schoolgirl by a police officer. The demonstrations in Banjul on 10 April 2000 reportedly became violent when security forces attempted to disperse the crowd by using tear gas, batons and rubber bullets, and firing at the crowd. Autopsies are said to have confirmed that live ammunition had been used. It is also alleged that some demonstrators threw stones at security forces, burned tyres and set buildings on fire. Many students arrested during and after the demonstrations are believed to have been subjected to ill-treatment while in custody by security forces, in particular the National Intelligence Agency. Although reports made by a commission of inquiry and by a coroner allegedly confirmed that security forces officers were responsible for the casualties, government officials allegedly stated on 6 January 2001 that in the spirit of reconciliation, none would be prosecuted. On the other hand, it is reported that officers suspected of causing the death of Ebrima Barry have been arrested.

Observations

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

Georgia

Communications sent

177. On 4 November 2003, the Special Representative sent an urgent appeal regarding the draft law “On Suspension of Activities, Liquidation and Banning of Extremist Organizations”, which was reportedly approved by the Security Council of Georgia in April 2003, and was allegedly pending before Parliament. According to the information received, article 4 of the law allegedly enables the Ministry of Security to ban organizations showing signs of “extremism” in the activities they conduct or plan or in their statements, in particular those alluding to the need for a new Government or those deemed to constitute a threat to Georgian sovereignty or territorial integrity. In addition, according to the information received, article 5 reportedly grants the Ministry of Security the authority to issue warnings to organizations whose activities are deemed to fall under the extremist qualification of article 4. It allegedly further provides the Ministry with the authority to refer these cases to the Constitutional or Supreme Court once two warnings have been issued against an organization. Additionally, in case of emergency, the Ministry can allegedly refer the organization’s case to the court without any prior warning. It has been alleged that such provisions grant the Ministry the power to arbitrarily threaten NGOs with closure, and would allow the Ministry to constantly monitor the activities of civil society, in particular human rights defenders. Concern was expressed that, should it be passed, such law may be used as a means to obstruct the work of NGOs working in the field of human rights. These concerns are heightened by the fact that, in March 2002, the President allegedly compared the activities of NGOs to those of terrorists and called for strict control to be exerted on their finances.

178. On 18 November 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 appeal regarding **Giorgi Mshvenieradze**, representative of Kutaisi branch of the Georgian Young Lawyers Association, who was reportedly sentenced to three months of preliminary detention on 5 November 2003 by the Kobuleti Regional Court in the Autonomous Republic of Adjara. According to information received, Mr. Mshvenieradze, who was an observer for the parliamentary elections, conducted parallel counting of the votes on 2 November in Kobuleti and the village of Dagvi, during which he reportedly noted serious violations of the election process in the polling station. It is reported that when he asked the members of the election commission to take note of these violations, he was reportedly beaten and arrested by officers of the local prosecutor's office. It is reported that he was first accused of violating and hindering the election process and hampering the activities of the election or referendum commission. On 4 November, these charges were reportedly changed and he was accused of acts of hooliganism committed by the use of guns or any objects serving as a weapon, resistance against the protector of public order or any other government representative and violation of article 162. It was reported that his three-month preliminary detention sentence implied that he would be tried again at the end of his prison term.

Observations

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

Guatemala

Comunicaciones enviadas

180. On 9 January 2003, the Special Rapporteur sent a joint letter of allegation with the Special Representative of the Secretary-General on human rights defenders to the Government of Guatemala, regarding the deaths of Antonio Pop Caal, an indigenous human rights defender, and Diego Velásquez Brito, an indigenous leader and former parliamentarian. The Special Rapporteur requested the Government to provide information about the above cases, and on judicial investigations and measures taken to prevent the recurrence of such acts.

181. El 7 de febrero de 2003, la Representante Especial envió un llamamiento urgente con respecto a la situación de **Claudia Samayoa** y **Orlando Blanco**, ambos defensores de derechos humanos. Según la información recibida, el 7 de enero de 2003 a las 13.00 aproximadamente éstos salían de una reunión en las oficinas del Centro de Acción Legal en Derechos Humanos (CALDH) cuando un hombre les habría mostrado una pistola en actitud amenazante. Ellos habrían huido del lugar de los hechos. El mismo día de la reunión en CALDH un *pick up* blanco también habría seguido a Orlando Blanco a lo largo de 15 calles. Según los informes recibidos, personas desconocidas habrían estado hostigando a Claudia Samayoa por teléfono desde hace varios meses, por lo que se teme que el incidente denunciado no es un hecho aislado.

182. El 12 de marzo de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión con respecto a la situación de **Isabel Enriquez**, periodista de la agencia de noticias Centro de Reportes Informativos sobre Guatemala (CERIGUA), quien el 23 de febrero de 2003 habría sido agredida y golpeada por dos hombres cuando se aproximaba a sus oficinas en la Ciudad de Guatemala. Los agresores le habrían además robado sus llaves y su bolso. Desde su fundación en 1983, CERIGUA ha informado sobre la situación de los derechos humanos en Guatemala y habría sido objeto de una intimidación constante. En el mismo llamamiento urgente se informa de que el 25 de febrero de 2003, **Marielos Monzón**, periodista para *Prensa Libre*, habría recibido amenazas de muerte a las pocas horas de publicar una columna que rendía homenaje a quienes luchan contra la impunidad. Sucesivamente, en fecha 2 de marzo de 2003, varias personas habrían entrado en el domicilio de la Sra. Monzón, robando piezas de la radio de los dos automóviles de la familia. Aunque lo sucedido podría parecer un aparente intento de robo común, antes del asalto y mientras que la policía estaba en su casa investigando, la Sra. Monzón habría recibido varias llamadas telefónicas anónimas. Cabe precisar que desde diciembre de 2002, la Sra. Monzón habría sido víctima de una serie de amenazas e intimidaciones, supuestamente relacionadas con su actividad periodística. Según informes, las autoridades no habrían todavía tomado medidas cautelares para proteger a la periodista y a sus dos hijos.

183. El 14 de abril de 2003, la Representante Especial envió un llamamiento urgente con respecto a la situación de **Waldemar Barrera**, representante regional de la Procuraduría de los Derechos Humanos (PDH) de Izabal, y otros empleados de la PDH. Según la información recibida, el 4 de abril de 2003 unos individuos no identificados habrían asaltado el automóvil de Waldemar Barrera cuando estaba aparcado en la localidad de Puerto Barrios, departamento de Izabal. Los asaltantes le habrían robado un maletín que contenía documentos relativos a la PDH. El 6 de abril, las oficinas de la PDH y la del propio Sr. Barrera en Puerto Barrios habrían sido allanadas y registradas por un grupo de desconocidos. En el momento del asalto, las oficinas se

habrían encontrado vacías. Según las informaciones recibidas, los desconocidos se habrían llevado numerosos archivos, ordenadores y otros artículos, pero ninguno de los objetos de valor que había en las oficinas. Se alega que los hechos denunciados podrían estar relacionados con las actividades llevadas a cabo por la PDH, principal institución del Estado encargada de proteger los derechos humanos y que está investigando más de 90 casos. En algunos de estos casos habrían estado involucrados las autoridades locales y agentes de las fuerzas de seguridad del Estado.

184. El 15 de abril de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión en relación con la situación de **Ileana Alamilla**, directora de la agencia de prensa CERIGUA, quien habría sido objeto de un robo el 9 de abril. Se teme que el hecho denunciado constituya una forma de intimidación contra Ileana Alamilla y CERIGUA por el trabajo que realizan en favor de la defensa, promoción y difusión de asuntos relacionados con los derechos humanos. El 9 de abril, desconocidos habrían robado el vehículo de Ileana Alamilla, que se encontraba estacionado fuera de las oficinas de CERIGUA en la capital. Según las informaciones recibidas los desconocidos también se habrían llevado un maletín que se encontraba en el vehículo y que contenía información confidencial. Este sería el tercer asalto sufrido por un miembro de una organización que trabaja en la defensa de los derechos humanos en Guatemala en los últimos cinco días. En este contexto se llama la atención del Gobierno respecto al llamamiento urgente enviado por la Representante Especial el 14 de abril de 2003 que concierne el presunto asalto sufrido por Waldemar Barrera, representante de la PDH en Izabal, así como el presunto allanamiento y robo de las oficinas de la PDH.

185. El 15 de abril de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas con respecto a la situación de **Rafael Chanchavac Cux**, dirigente de la Coordinadora Nacional Indígena y Campesina (CONIC) y de la Coordinadora Nacional de Organizaciones Campesinas (CNOOC), y otros activistas campesinos. Desde febrero de 2003, Rafael Chanchavac Cux habría venido recibiendo amenazas telefónicas anónimas que se habrían intensificado durante el último mes. En ellas se le advertiría de que se conocen los movimientos de sus familiares y los centros de estudio a los que asisten sus hijos. Según la información recibida, **Daniel Chanchavac Zet**, hijo de Rafael Chanchavac Cux, habría sido secuestrado el 4 de abril de 2003 cerca de su domicilio de San Felipe, departamento de Retalhuleu, y se desconocería su paradero. Se teme que las presuntas amenazas contra Rafael Chanchavac Cux y el secuestro denunciado de su hijo estarían relacionados con la intensificación de actos de agresión e intimidación contra activistas campesinos. La comunidad de Lanquín II habría sido el escenario de una serie de homicidios, atentados y amenazas desde el año 2001 en el marco de conflictos sobre la propiedad de la tierra entre los miembros de la comunidad y el terrateniente local. El último homicidio habría ocurrido el 5 de abril de 2003. La víctima habría sido el activista **Jorge Gómez**, de la comunidad de Lanquín II, municipio de Morales, departamento de Izabal.

186. El 16 de abril de 2003, la Representante Especial envió un llamamiento urgente con respecto a la situación de **Mario Polanco**, Director del Grupo de Apoyo Mutuo (GAM) y de **Nineth Montenegro**, fundadora del GAM y diputada del Congreso de la República de Guatemala. Según las informaciones recibidas el 7 de abril de 2003, cinco hombres fuertemente

armados habrían entrado en la residencia de Mario Polanco y Nineth Montenegro. Los hombres se habrían presentado en la casa de las personas antes mencionadas argumentando que llevaban un paquete para Mario Polanco. Según la información recibida, los hombres habrían interrogado a la empleada sobre las actividades de Mario Polanco, habrían registrado archivos, robado bases de datos y otros documentos. Los hombres también habrían robado aparatos domésticos del domicilio, en un presunto intento de encubrir el presunto allanamiento para que parezca un acto de delincuencia común. El GAM habría interpuesto una denuncia en relación con los hechos anteriormente descritos ante el ministerio público, la Policía Nacional, la Procuraduría de Derechos Humanos y ante la Misión de Verificación de las Naciones Unidas en Guatemala. Según la información recibida, previo al presunto allanamiento Mario Polanco habría viajado a Ginebra donde habría participado en la Comisión de Derechos Humanos y donde habría denunciado el deterioro de la situación de los derechos humanos en el país.

187. El 25 de junio de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión en relación con **José Rubén Zamora, presidente del diario *El Periódico*, y su familia**. Según la información recibida, el 24 de junio de 2003 a las 08.30, un grupo de 12 hombres armados habría ingresado en la residencia de José Rubén Zamora. Se habrían identificado como agentes del ministerio público y de la Policía Nacional, con credenciales que se presume eran falsas. Según la información recibida, durante dos horas los hombres armados habrían intimidado con sus armas a José Rubén Zamora y a su esposa y habrían agredido físicamente a sus tres hijos. Los hombres también habrían amenazado a José Rubén Zamora afirmando: “no se meta con los de arriba”. Se alega que los hombres llevaban el rostro descubierto. Según las informaciones recibidas, el diario *El Periódico* se habría caracterizado por impulsar un periodismo de investigación y la publicación de amplios reportajes sobre la presunta corrupción de funcionarios del Gobierno y de diputados del partido gobernante, Frente Republicano Guatemalteco. Este diario también habría dado amplios espacios periodísticos al tema del crimen organizado, las presuntas actividades ilegales de los servicios de inteligencia, la presunta existencia de cuerpos clandestinos de seguridad y el supuesto patrón sistemático de violencia política contra operadores de justicia, defensores de derechos humanos, periodistas y científicos sociales. En fechas recientes, se alega que José Rubén Zamora habría sido presionado por la Fiscalía contra la Corrupción para que presentara testimonio sobre las fuentes de información que utiliza *El Periódico* para fundamentar sus reportajes sobre corrupción, crimen organizado y poderes ocultos. Según la información recibida, el órgano judicial habría amparado al periodista por lo que la Fiscalía habría desistido.

188. El 1.º de julio de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la independencia de magistrados y abogados en relación con las amenazas de muerte y actos de hostigamiento en contra de **Thelma de Lam**, recientemente nombrada Fiscal especial para los defensores de los derechos humanos, y **Marines Martínez**, Fiscal auxiliar para los defensores de los derechos humanos. Según la información recibida, el 20 de junio de 2003, tres hombres armados habrían entrado en la casa de Marines Martínez en la capital, Ciudad de Guatemala, exigiendo verla. Una de las empleadas de hogar les habría dicho que no se encontraba allí y ellos habrían encargado que le dijeran a Marines que “si sigue investigando va a recibir una sorpresa esta noche”. Ese mismo día, hombres no identificados habrían tratado de entrar en el domicilio de Thelma de Lam, también en Ciudad de Guatemala. Habrían asegurado ser electricistas y habrían insistido, amenazadoramente, en la

necesidad que tenían de entrar en la casa para arreglar una avería. Sin embargo, no se había notificado que hubiera ningún problema eléctrico en la vivienda y, finalmente, se les habría negado el acceso y habrían acabado marchándose. El 23 de junio, Thelma de Lam habría recibido dos llamadas anónimas en su teléfono portátil. El primer interlocutor le habría dicho que tuviera cuidado con lo que está haciendo, y el segundo que terminase su trabajo con el ministerio público.

189. El 9 de julio de 2003, la Representante Especial envió un llamamiento urgente con respecto a la situación de **Carmen Judith Morán Cruz**, periodista de CERIGUA, y de su familia, quienes habrían sido amenazados. Según la información recibida, el 29 de junio de 2003 Carmen Judith Morán Cruz habría recibido dos llamadas de teléfono de una persona no identificada, quien la habría amenazado a ella y a su familia para que dejara de trabajar con CERIGUA. El 3 de julio, habría recibido otra llamada anónima con nuevas amenazas. El interlocutor la habría amenazado con las siguientes palabras: "ahora sus papás pagarán las consecuencias y ni la policía ni el ministerio público ni los grupos de derechos humanos nacionales e internacionales podrán evitarlo". La Representante Especial ha sido informada de que la policía ha patrullado por los alrededores de su casa pero que sus padres, que viven en Ciudad de Guatemala, no han recibido ningún tipo de protección. Se teme que estas amenazas estén relacionadas con el trabajo de la sección de Salama de CERIGUA sobre varias cuestiones locales delicadas, en particular, exhumaciones y conflictos de tierras.

190. El 21 de julio de 2003, la Representante Especial envió un llamamiento urgente con respecto a la situación de **Thelma Peláez**, Fiscal encargada de la investigación tras el asesinato del auxiliar de la PDH de Chimaltenango José Israel López López, el 11 de junio de 2003, y quien habría recibido una serie de amenazas con el fin de disuadirla de abandonar la investigación. Según la información recibida, el 19 de junio, un grupo de desconocidos habría tratado de ingresar en la residencia de la Sra. Peláez y le habría advertido de tener cuidado con la investigación. El mismo día, otro grupo se habría presentado en la casa de la auxiliar de la Fiscal, supuestamente para efectuar trabajos eléctricos, y habría dejado un mensaje de amenazas de no seguir la investigación. El 23 de junio, un grupo de individuos habría visitado la residencia del conductor de la Unidad de la Fiscalía, en San Marco, y habría indicado a la esposa del piloto que dijera a la Fiscal que dejara de investigar el caso en cuestión. El Procurador de los derechos humanos habría exigido al Fiscal General que adopte medidas para garantizar la seguridad de la Sra. Peláez y su equipo. Asimismo se informó que **Elmer Guerra, Waldemar Barrera, Alex Toro y Luis Ramos**, delegados regionales de la PDH, habrían sido objeto de amenazas por sus actividades de defensa de los derechos humanos, las cuales tendrían relación con las denuncias sobre atropellos que habrían sido cometidos por el Ejército, la Policía Nacional Civil (PNC), el Servicio de Análisis e Información Antinarcóticos (SAIA), así como por la denuncia de abusos en contra de emigrantes. Finalmente se informó de que, de acuerdo con la PDH, 16 de los 31 auxiliares departamentales habrían sido objeto de amenazas en relación con sus investigaciones. Estos hechos hacen temer por la seguridad de algunos miembros de la PDH. Se han expresado temores igualmente por el deterioro de la situación de los defensores de derechos humanos en el país.

191. El 13 de agosto de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión en relación con la situación de **Norma Maldonado**, quien trabaja bajo el

auspicio del grupo Mesa Global de Guatemala, el cual incluye a Mamá Maquin, un grupo rural que se ocupa de los derechos de la mujer. De acuerdo con las informaciones recibidas, el 24 de julio de 2003 a las 09.00, tres hombres armados habrían irrumpido violentamente dentro de la casa de Norma Maldonado en Ciudad de Guatemala. Los intrusos habrían violentado a los presentes, incluyendo a los miembros del comité de directores de Mamá Maquin y a un estudiante de los Estados Unidos quien se encontraba trabajando con ellos. Los hombres habrían abierto los archivos de varias computadoras, registrado documentos, discos y carpetas en busca de informaciones específicas. Después de una hora, los asaltantes habrían huido, posiblemente alertados por las repetidas llamadas telefónicas y la llegada de un visitante. Igualmente los asaltantes se habrían apropiado de dos computadoras personales en las cuales se encontraba información sobre las actividades del grupo, así como de una cámara en la que se encontraría un rollo con las fotos del reciente encuentro de abogados y activistas del medio ambiente de México y Guatemala opuestos al llamado Plan Puebla Panamá (PPP), efectuado en junio de 2003 en Ixán, Guatemala. Se han expresado preocupaciones en torno a que esta incursión violenta sea parte de una extensa cadena de intimidaciones y abusos dirigidos contra los líderes de grupos que se ocupan de cuestiones relacionadas con el medio ambiente. Se teme que estos ataques serían una manera de silenciar las oposiciones de estos grupos al Área de Libre Comercio de las Américas y al PPP.

192. El 13 de agosto de 2003, la Representante Especial envió un llamamiento urgente con respecto a la situación de **Rigoberta Menchú Tum**, fundadora y presidenta de la Fundación Rigoberta Menchú Tum (FRMT), un familiar de ésta, **Francisco Menchú** y **otros miembros del personal de la FRMT**. Se informa de que el 10 de agosto de 2003, a las 21.25, Francisco Menchú, que trabaja como guardia de seguridad en la FRMT, habría sido capturado violentamente por dos desconocidos que, a punta de pistola, lo habrían obligado a introducirse en un taxi blanco en la Zona 1 de la capital, Ciudad de Guatemala. Los hombres le habrían golpeado brutalmente. De acuerdo con la información recibida, Francisco Menchú siguió sufriendo agresiones en el interior del taxi por un tiempo aproximado de diez minutos. Después le habrían robado sus documentos de identidad, sus tarjetas de crédito y su licencia de armas para luego empujarlo fuera del coche. Se alega que los agresores vestían camisas blancas y chaquetas negras, una ropa que vestirían frecuentemente los agentes de los servicios de inteligencia militar. Se informa también de que, tras la agresión, Francisco Menchú se fue a su casa y telefoneó al director de la FRMT, Gustavo Meoño Brenner, para informarle del incidente. Más tarde, esa misma noche, entre las 21.55 y las 23.00, Francisco Menchú habría recibido dos llamadas telefónicas anónimas de amenazas en las que se le habría señalado, en particular, que se conocían sus identidades y paraderos. Por otro lado, se alega que el incidente antes explicado, habría ocurrido dos días después de que a Rigoberta Menchú Tum le hubiera seguido un individuo en una camioneta blanca cuando se dirigía en automóvil a las oficinas de la FRMT. Durante el trayecto, el perseguidor habría tratado sin éxito de hacer chocar la camioneta contra el automóvil de Rigoberta Menchú. Finalmente, se alega también que en cinco ocasiones entre el 26 de julio y el 7 de agosto de 2003, varios individuos no identificados habrían vigilado las oficinas de la FRMT en la Zona 1 de Ciudad de Guatemala y habrían acosado al personal de la Fundación. Uno de ellos habría llevado botas militares y habría ido armado con un revólver. Asimismo, se ha recibido información de acuerdo con la cual, el 26 de julio de 2003, miembros de la FRMT habrían sabido por diversas fuentes que existía una lista negra de defensores de los derechos humanos y que las personas que atacaran a los citados en la lista conducirían taxis.

193. El 15 de agosto de 2003, la Representante Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias en relación con la situación de peligro en que se encontraría **Mario Estuardo Garrido Batres**, coordinador del Proyecto Reconciliación del Programa de las Naciones Unidas para el Desarrollo y director de la Asociación para el Desarrollo Integral de las Víctimas de la Violencia en las Verapaces (ADIVIMA), como consecuencia de una serie de amenazas de muerte que vendrían siendo dirigidas en su contra. De acuerdo con las informaciones recibidas, el 5 de agosto de 2003 a las 14.40, Mario Garrido habría recibido una llamada telefónica a su celular procedente del número xxx [el numero no será publicado en el informe público por razones de confidencialidad] donde se le indicaba: “estás pendiente, estás chingando mucho te vamos a matar” repitiendo esta frase varias veces. Diez minutos después habría recibido una nueva comunicación del mismo numero telefónico en la cual habrían manifestado lo mismo añadiendo: “estás pendiente ya sabemos dónde estás, estás ubicado, te vamos a matar, con mis amigos del SIC [Servicio de Investigación Criminal] y del Estado Mayor Presidencial”. Una última comunicación en el mismo sentido habría sido recibida a las 15.10. En el mismo sentido se informa de que las llamadas recibidas serían producto de una estrategia sistemática de intimidaciones y amenazas en contra de los activistas de derechos humanos que desarrollan sus actividades de asistencia legal a las víctimas en el municipio de Rabinal. Estas actividades involucrarían los trámites de denuncias de cementerios clandestinos frente al ministerio público, así como la coordinación de exhumaciones con la Fundación de Antropología Forense de Guatemala (FAFG). Finalmente se informó de que el hecho habría sido denunciado ante la Auxiliatura Departamental del Procurador de los Derechos Humanos de Baja Verapaz y al ministerio público.

194. El 19 de agosto de 2003, la Representante Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias en relación con la FAFG, una organización de investigaciones antropológico- forenses, y sus miembros, en particular **Jessika Marisela Osorio Galindo**, secretaria de la Dirección de Arqueología Forense, que habría recibido amenazas de muerte e intimidaciones. Según la información recibida, el 29 de julio de 2003, aproximadamente a las 10.35 se habría recibido una llamada intimidatoria en la recepción de las oficinas de la FAFG en relación con la participación del general Ríos Montt en las elecciones. Esta amenaza sigue a las manifestaciones del 24 de julio en favor de la inscripción de Ríos Montt como candidato presidencial para las elecciones generales del 9 de noviembre, candidatura que habría sido prohibida por una disposición de la Constitución guatemalteca en su artículo 186. Se informa de que el 13 de julio de 2003, aproximadamente a las 14.15, Jessika Marisela Osorio Galindo estaría conduciendo un vehículo con su hermano, Oscar Estuardo Osorio Galindo, sobre la Calzada San Juan, cuando habría observado que un *pick up* color rojo, marca Datsun, conducido por un hombre los habría estado persiguiendo. Los hermanos Osorio habrían decidido dirigirse hacia una gasolinera Shell ubicada frente a Plaza Florida, lugar en donde el conductor del vehículo habría frenado bruscamente al lado del vehículo que la Sra. Osorio Galindo conducía, cubriéndose el brazo y apuntándole como si tuviera un arma de fuego. Además los habría perseguido hasta su casa en donde también los habría insultado. Según la información recibida, habría sido la segunda vez que habría sido perseguida por un *pick up*, la primera vez habría ocurrido en el 27 de junio. En el mismo llamamiento urgente se informa de que otros miembros de la organización habrían sido sujetos a amenazas e intimidaciones en particular **Omar Bertoni Girón**, antropólogo forense de la institución quien habría recibido un anónimo escrito el 13 de junio. También **Leonel Estuardo Paiz Diez**, cuya casa habría sido vigilada por un desconocido el 1.º de mayo, y **Fredy Peccerelli**,

Director ejecutivo de la FAFG, que se habría percatado de un impacto de proyectil de arma de fuego en el portón de su residencia el 29 de abril. Se teme que los ataques más recientes tengan relación con la actividad en el ámbito de los derechos humanos de la FAFG, en particular su trabajo de excavación de los cementerios clandestinos que datan de los años 1982 y 1983, durante la presidencia del general Ríos Montt.

195. El 9 de octubre de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas con respecto a la situación de **Amílcar Méndez** y **Eusebio Macario**, miembros fundadores de la organización de derechos indígenas **las Comunidades Étnicas Runujel Junam (CERJ)**. Según la información recibida, Eusebio Macario habría recibido varios disparos de unos desconocidos el día 27 de septiembre de 2003 que le habrían causado la muerte cuando se encontraba paseando cerca de su casa en la aldea de Chulumal, en el departamento de El Quiché. El 1.º de octubre Amílcar Méndez habría recibido una llamada telefónica anónima en su teléfono móvil en la cual un desconocido le habría amenazado de muerte. Se teme que la muerte del Sr. Macario y las supuestas amenazas al Sr. Méndez pudieran estar relacionadas con el trabajo que la organización a la que ambos pertenecen está llevando a cabo en la búsqueda de reparación a las víctimas de la población indígena durante el conflicto civil interno que vivió el país a principios de los años ochenta.

Alegaciones

196. La Representante Especial fue informada de que el 23 de agosto de 2002 **Roberto Romero**, abogado que lleva el caso contra tres oficiales del Ejército presuntos responsables de ordenar el asesinato de la antropóloga Myrna Mack, muerta en 1990, habría recibido amenazas de muerte anónimas por teléfono. Momentos después individuos no identificados habrían abierto fuego contra la casa de Roberto Romero, donde se encontraban sus dos hijas. Ambas se habrían refugiado en una habitación y habrían alertado a sus padres de lo acontecido. El 14 agosto de 2002 la Corte Interamericana de Derechos Humanos resolvió pedir medidas provisionales de protección para Helen Mack, directora de la Fundación Myrna Mack, y los integrantes de la misma, por las reiteradas amenazas de muerte que ella y miembros de su organización habrían recibido.

197. Además recibió información de que entre la noche del 27 y 28 de agosto de 2002 habrían sido allanadas las instalaciones del **Movimiento Social por la Niñez**. Según la información recibida durante el presunto allanamiento, desconocidos habrían registrado documentación, robado archivos, disquetes y computadoras. El evento reportado se habría producido días después de la reunión que el Movimiento sostuvo con Susana Villarán, Relatora de la Niñez de la Organización de Estados Americanos, en visita oficial al país y en el momento en que la Corte de Constitucionalidad de Guatemala habría resuelto favorablemente la entrada en vigencia del Código de la Niñez y la Juventud.

198. También se ha recibido información según la cual el personal de la **Procuraduría Auxiliar de Derechos Humanos (PDH) de Huehuetenango**, entre ellos **Rolando Noriega**, **Erick Villatoro Letona**, **Rubén Ríos** y **Gerson Palacios**, habría recibido una serie de amenazas de muerte anónimas tanto en sus casas como en las oficinas de la institución. El 24 de agosto de 2002, desconocidos habrían realizado siete disparos de arma de fuego en frente de las oficinas de

la PDH, donde reside Rolando Noriega actualmente. En junio y julio de 2002 Gerson Palacios habría denunciado que en varias ocasiones una camioneta negra lo habría seguido y que hombres desconocidos habrían estado observando su casa.

199. La Representante Especial ha recibido informaciones relativas a la situación de **Oxlajuj Ajpop**, miembro de Conference of Ministers of Mayan Spirituality, organización que se dedica a la defensa del derecho de practicar la religión de las comunidades Mayan. Según las informaciones recibidas en fechas 23, 28, 30 de junio y 1.º de julio de 2003, individuos no identificados habrían irrumpido en las oficinas de Oxlajuj Ajpop, situadas en la Zona 3 de la Ciudad de Guatemala. Dichos individuos habrían accedido a los ficheros y documentos de la organización y se habrían apropiado de artefactos antiguos que se usan en ceremonias religiosas. Se informa de que, a pesar de que las autoridades habrían sido informadas de los hechos ocurridos, no habrían tomado medidas para investigarlos. Existe la preocupación de que Oxlajuj Ajpop pueda haber sido escogido como objetivo debido a sus actividades en defensa de los derechos de la comunidad Mayan. Esta preocupación está acentuada por los informes que hacen alusión a que, en lo que va de año, seis líderes espirituales habrían sido asesinados por personas desconocidas.

Comunicaciones recibidas

200. Por carta fechada el 10 de julio de 2003, el Gobierno contestó a la comunicación transmitida por la Representante Especial en relación con **José Zamora**. El Gobierno informó de que el mismo 24 de junio, el Ministro de Gobernación había iniciado las investigaciones pertinentes del caso a través de un grupo especial de investigadores de la Policía Nacional Civil y el 1.º de julio por parte de la Fiscalía de Delitos Cometidos contra Sindicalistas y Periodistas se llevó a cabo un informe detallado de las investigaciones. Señaló que con fecha 2 de julio, la familia de José Zamora había salido del país. Además, el Presidente de la República, a solicitud de la Corte Interamericana de Derechos Humanos, brindó las medidas cautelares a José Rubén Zamora, quien permaneció en el país.

201. Por carta fechada el 30 de abril de 2003, el Gobierno respondió al llamamiento urgente enviado por la Representante Especial el 23 de febrero de 2003 sobre **Isabel Enríquez**. Informó de que una investigación había sido iniciada por la Policía Nacional Civil y el ministerio público pero hasta la fecha no existieron resultados concluyentes para identificar a las personas que agredieron a la denunciante ni tampoco para la determinación de las circunstancias de los hechos denunciados.

202. Por carta fechada el 6 de marzo de 2003 el Gobierno informó de que una investigación respecto al homicidio de **Antonio Pop Caal** había sido iniciada y que en cuanto tuviera más información informaría oportunamente a la Representante Especial.

203. Por carta fechada el 13 de agosto de 2003, el Gobierno contestó a las comunicaciones transmitidas por la Representante Especial en relación con los siguientes casos.

204. Respecto al caso de **Claudia Samayoa y Orlando Blanco**, informó que las personas nombradas fueron citadas para que declararan en la Fiscalía de Derechos Humanos y que, cuando

se tengan todos los elementos que aporte la investigación, se solicitará un juez contralor para la investigación a fin de realizar las acciones legales que sean pertinentes.

205. Respecto al caso de **Nineth Montenegro y Mario Palanca**, informó que las investigaciones realizadas por la Fiscalía establecieron que se trató de un robo realizado por la delincuencia común, ya que en el vecindario se produjeron siete asaltos con las mismas características del 30 de enero al 30 de abril. Afirmó que el ministerio público se coordinará con la Policía Nacional Civil para realizar operativos en el área para lograr la aprehensión y enjuiciamiento de los autores de los actos delictivos.

206. Respecto al caso de **Isabel Enríquez** informó que el 26 de febrero una investigación había sido iniciada por la Policía Nacional Civil y el ministerio público. Hasta la fecha no existían resultados concluyentes.

207. Respecto al caso de **Rafael Chanchavac Cux**, informó que en una entrevista realizada con la persona nombrada el 10 de mayo de 2003, se estableció que ésta no quiso hacer ninguna denuncia respecto a las amenazas telefónicas recibidas. En cuanto al secuestro de su hijo, **Daniel Chanchavac Icep**, informó que el 5 de mayo de 2003 había regresado a su domicilio.

208. Por carta fechada el 8 enero de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial en relación con **Eusebio Macario**. El Gobierno confirmó el hecho resumido en la denuncia e informó que una investigación había sido iniciada, la cual ya tenía tres hipótesis alrededor de los autores del hecho. Informó que el procedimiento investigativo continuaría a fin de determinar la verdad material del crimen.

Seguimiento de comunicaciones transmitidas previamente

209. Por carta fechada el 18 de febrero de 2003, el Gobierno contestó a la comunicación transmitida por la Representante Especial en relación con **Diego Velasco Brito**. El Gobierno informó de que una investigación oficial había sido iniciada a través de la Policía Nacional Civil y el ministerio público y una orden de prisión preventiva fue dictada contra un presunto responsable.

210. Por carta de 18 de agosto de 2003, el Gobierno respondió a la comunicación enviada por la Representante Especial el 24 de julio de 2002. El Gobierno informó que, respecto a las amenazas telefónicas recibidas por miembros de la asociación **ADIVIMA**, había sido iniciada una investigación que había establecido que los números telefónicos pertenecen a personal particular y, a la fecha, se estaba verificando si aquellas personas pertenecieron en algún momento a las Patrullas de Autodefensa Civil (PAC) o a los servicios de inteligencia militar. La investigación continuaba. Informó que durante el año en curso, ADIVIMA había llevado a cabo exhumaciones con toda normalidad.

211. Por carta de 25 de marzo de 2003, el Gobierno respondió a la comunicación enviado por la Representante Especial junto con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión el 17 de abril de 2002 en relación con las amenazas contra el

periodista **David Herrera Quevedo**. Según el Gobierno, la investigación adelantada por la Fiscalía especial de sindicalistas y periodistas no ha arrojado resultados que comprueben la veracidad de la denuncia. Asimismo informó que por medio de Interpol se está localizando en Ciudad de México al mencionado periodista.

212. Por carta de 4 de febrero de 2003, el Gobierno respondió a la comunicación enviada por la Representante Especial junto con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Relator Especial sobre la situación de los derechos humanos y libertades fundamentales de los indígenas el 28 de noviembre de 2002 sobre el caso del líder indígena **Jorge Mocúa Caal**. El Gobierno informó que los hechos del 12 de noviembre de 2002 habrían sido originados por la desaparición y posterior homicidio de la menor **D. L. O. C.** En tal sentido señaló que se habría tratado de una manifestación en el parque central del municipio del Estor, mediante la cual los vecinos del lugar habrían solicitado la presencia de Jorge Mocúa Caal, a quien habrían acusado de encubrir al presunto asesino de la menor. Asimismo, informó que Jorge Mocúa Caal y su familia son objeto de medidas de seguridad perimetral. En cuanto a la investigación penal, el Gobierno informó que ésta no se habría iniciado en vista de que el afectado no presentó ninguna denuncia ante el ministerio público. Finalmente el Gobierno señaló que en ningún momento habría existido implicación de agentes de seguridad del Estado.

213. Por varias cartas fechadas el 13 de agosto, el Gobierno proporcionó más información sobre las siguientes comunicaciones.

214. Respecto a la comunicación enviada por la Representante Especial junto con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias el 8 de noviembre de 2001, el Gobierno informó que la Policía Nacional Civil había prestado la seguridad perimetral solicitada a favor de **Francisco Javier Méndez Gámez** y su familia hasta el mes de noviembre de 2002, fecha en que dejó de laborar para la Procuraduría de Derechos Humanos.

215. Respecto a la comunicación enviada por la Representante Especial junto con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias el 26 de marzo de 2002, el Gobierno informó que, a la fecha, las fuerzas de seguridad del Estado continuaban con las acciones respectivas para proteger la vida y la integridad física del **obispo Alvaro Leonel Ramazzini Imeri** y el sacerdote **Juan Jose Aldaz Donomaria**. Además informó que dentro de la investigación respecto a las amenazas de muerte se analizaron los testimonios de varias personas pero no había sido posible lograr la individualización de los responsables.

216. Respecto a la comunicación enviada por la Representante Especial el 6 de marzo de 2002 sobre las amenazas recibidas por miembros de FAFG así como por miembros del **Centro de Antropología Forense y Ciencias Aplicadas (CAFCA)**, el Gobierno informó que tales amenazas eran objeto de investigación por parte del Departamento de investigaciones criminológicas de la Policía Nacional Civil. Asimismo informó que en agosto de 2002 los antropólogos forenses habrían solicitado continuar con la seguridad perimetral en sus viviendas así como en las oficinas de FAFG y CAFCA, y suspender la seguridad personal por cuanto no se considerarían amenazados. Finalmente informó que en la actualidad sólo dos antropólogos contarían con seguridad personal.

217. Respecto a la comunicación enviada por la Representante Especial el 24 de julio de 2002 en la cual figuraron 28 denuncias, el Gobierno proporcionó la siguiente información:

218. Respecto al caso de **Erwin Harold Ochoa López** y **Julio Armando Vásquez Ramírez** señaló que dos procesos habían sido indiciados contra los dos presuntos responsables del doble asesinato.

219. Respecto al caso de **Alba Liluvina Vandez Sosa** informó que se acordó prestarle medidas de seguridad y que una investigación estaba en proceso de terminar, el resultado de la cual remitirá con brevedad.

220. Respecto al caso de **Patricia Rosidelia Velasquez Orozco** informó que según la información recibida por el Gobierno, se concluyó que en ningún momento existió por parte de las autoridades del Ministerio de Salud Pública amenaza en contra de Patricia Rosidelia Velasquez Orozco, sino que de parte de ella hubo un incumplimiento de deberes y violación de diversos artículos del ordenamiento legal al ausentarse de sus labores. Informó que a la fecha mantuvo el puesto de paramédico III, especialidad en enfermería.

221. Respecto al caso del sacerdote **Rigoberto Pérez Garrido**, informó que se adelantaron las investigaciones correspondientes con el fin de individualizar a los responsables de los hechos que ocasionaron el incendio del 21 de febrero de 2002. Con relación a las amenazas contra el sacerdote Rigoberto Pérez Garrido, el Gobierno informó que tales hechos no habrían sido puestos en conocimiento de la instancia nacional encargada de la investigación penal.

222. Respecto al caso de **Guillermo Ovalle de León** informó que el 22 de agosto de 2002 el ministerio público habría presentado la acusación correspondiente contra las personas sindicadas, por lo que se estaría a la espera de la audiencia ante el tribunal. Asimismo informó que un tercer sindicado habría sido puesto a disposición del tribunal de justicia. El Gobierno también informó que en coordinación con la oficina de atención a la víctima se habría procedido a brindar atención a las personas afectadas por los hechos y que se continuaría prestando seguridad tanto a los testigos presenciales como a los miembros de la fundación Rigoberta Menchú Tum.

223. Respecto al caso de **Rosalina Tuyuc Velásquez** y los otros miembros de CONAVIGUA informó que una investigación fue iniciada que confirmó los hechos denunciados pero que hasta la fecha no fue posible individualizar a ninguna persona como responsable de los actos. Confirmó que la Policía Nacional Civil continuará proporcionando seguridad perimetral a las personas afectadas.

224. Respecto al caso de la Coordinadora de Asociaciones y Organizaciones de Desarrollo Integral (CASODI) informó que una investigación realizada por la Policía Nacional Civil y el ministerio público no llegó a ningún resultado concreto para identificar al imputado del hecho y los elementos probatorios reunidos hasta la fecha eran insuficientes para requerir fundadamente la apertura de juicio.

225. Respecto al caso de **Arturo Caniz del Comité de Unidad Campesina (CUC)** informó que el caso fue investigado por el ministerio público y que, al realizar las pesquisas

correspondientes, no se contó con elementos probatorios suficientes para identificar al imputado. Además informó que Arturo Caniz a la fecha residió en el Canadá con su esposa e hija menor.

226. Respecto al caso de **Miguel Ángel Gómez de León**, informó que, según el denunciante, las amenazas de muerte habían cesado y asimismo el caso fue desestimado por el ministerio público de acuerdo con el artículo 310 del Código Procesal Penal.

227. Respecto al caso de **Servelio Ramos Hernández** y **Eugenio García**, informó que tres personas responsables del homicidio de Servelio Ramos Hernández fueron identificadas y una ha sido puesta a disposición de los tribunales, pero las restantes eran prófugos de la justicia. Respecto al homicidio de Eugenio García, informó que una persona ya recibió prórroga de prisión y que a la fecha, cuatro agentes de la Policía Nacional Civil se encontraban bajo arresto domiciliario quedando pendiente que se fije la fecha de apertura a juicio por el delito de incumplimiento de deberes.

228. Respecto al caso de Telma Hernández, informó que a la fecha, el ministerio público continuaba con una investigación pero asimismo el Procurador de los Derechos Humanos había determinado que no pudo establecer la veracidad de la denuncia y estableció que no existían elementos suficientes para señalar a los agentes de la Policía Nacional Civil ni agentes de seguridad gubernamentales como responsables por los hechos denunciados.

Observaciones

229. La Representante Especial quisiera agradecer las respuestas recibidas del Gobierno, incluyendo algunas muy inmediatas, y las múltiples acciones tomadas a favor de los defensores de derechos humanos, que reflejan una voluntad muy importante por parte del Gobierno de cooperar con su mandato. Asimismo, la Representante Especial sigue estando muy preocupada por la gran cantidad de violaciones supuestamente cometidas contra los defensores de los derechos humanos, incluidos asesinatos, asaltos y otros actos de violencia, amenazas de muerte, allanamientos y robos.

Guinea-Bissau

Communications envoyées

230. Le 12 février 2003, 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 la question de la torture et le Président-Rapporteur du Groupe de travail sur la détention arbitraire, a envoyé un appel urgent concernant **Joao Vas Mane**, vice-président de la Ligue guinéenne des droits de l'homme (LGDH). Joao Vas Mane aurait été arrêté le mercredi 29 janvier 2003 par des membres des services de sécurité et se trouverait depuis lors détenu au secret à la Segunda Esquadra, où il aurait subi des interrogatoires, en particulier le 30 janvier 2003 entre une heure et quatre heures du matin. Il n'aurait pas eu accès à son avocat, n'aurait pu entrer en contact avec sa famille, et n'aurait été présenté devant un juge. Selon l'information reçue, l'arrestation de Joao Vas Mane serait liée à sa participation, le 28 janvier 2002, à une émission de la radio Bombolon, « Palabre de paix », pendant laquelle il aurait critiqué le

Président Kumba Yala pour avoir mobilisé des fonds pour le voyage des pèlerins à La Mecque tandis que des fonctionnaires de l'Etat seraient restés sans percevoir leurs salaires depuis quatre à sept mois.

231. Le 7 août 2003, 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 second appel urgent concernant **Joao Vas Mane** qui aurait fait l'objet de menaces de la part d'un haut officier de la police. Selon les informations reçues, le 9 juillet 2003, lors d'un programme hebdomadaire au sujet des droits de l'homme à la radio, "Bombolom", Joao Vas Mane aurait parlé d'un homme de 18 ans qui aurait été tué par un agent de police, et d'une femme qui aurait été victime d'une arrestation arbitraire et de violences sexuelles de la part de policiers. En réaction aux propos de Joao Vas Mane, et lors d'une conférence de presse tenue le 14 juillet, le Commissaire général de la police aurait critiqué les activités de la LGDH et aurait proféré des menaces à l'encontre de Joao Vas Mane.

Observations

232. La Représentante spéciale regrette qu'au moment de la finalisation de son rapport, aucune réponse à ses communications n'ait été reçue. Elle a été informée de la libération le 19 février 2003 de Joao Vas Mane, dont elle se félicite, mais regrette les nouvelles allégations de menaces dont il aurait été l'objet.

Haiti

Communications envoyées

233. Le 8 janvier 2003, la Représentante spéciale, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent concernant la situation de danger dans laquelle se trouverait **Michèle Montas**, journaliste de radio de renom. D'après les informations reçues, le 25 décembre 2002, deux hommes armés auraient tenté de forcer l'entrée du domicile de Michèle Montas à Port-au-Prince, tuant lors de l'attaque l'un de ses gardes du corps, Maxime Seide. Tout porte à croire que cette attaque pourrait avoir un lien avec l'assassinat de Jean Dominique, journaliste et époux de Michèle Montas, en avril 2000. Elle aurait d'ailleurs multiplié les démarches pour que les responsables du meurtre de son mari soient identifiés et traduits en justice, en dépit des nombreuses menaces de mort dont elle aurait fait l'objet depuis lors. Il nous a par ailleurs été rapporté que d'autres journalistes auraient reçu des menaces similaires, notamment après avoir enquêté sur des meurtres qui auraient été commis par des forces de police.

234. Le 17 février 2003, la Représentante spéciale, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé un appel urgent concernant **Marie Yolène Gilles**, coordinatrice du programme d'observation des droits de l'homme au sein de la Coalition nationale pour les droits des haïtiens. Selon l'information reçue, Mme Gilles ferait l'objet de menaces téléphoniques lui ordonnant de ne plus s'impliquer dans l'affaire « Carrefour » relative au meurtre de trois hommes prétendument assassinés par des

membres de la police nationale haïtienne. Ces menaces sont d'autant plus préoccupantes qu'elles surviennent après le meurtre du policier Aspiller Constant, témoin clef dans l'affaire «Carrefour».

Communications reçues

235. Par lettre datée du 25 février 2003, la Mission permanente d'Haïti auprès de l'Office des Nations Unies à Genève a répondu à l'appel urgent envoyé le 17 février 2003 concernant le cas de **Marie Yolène Gilles**, coordinatrice du programme d'observation des droits de l'homme au sein de la Coalition nationale pour les droits des haïtiens. La Mission permanente d'Haïti a informé la Représentante spéciale que cette correspondance a été transmise au Ministère des affaires étrangères pour les suites nécessaires.

236. Par lettre datée du 10 janvier 2003, le Gouvernement a répondu à l'appel urgent envoyé le 8 janvier 2003 concernant le cas de Mme **Michèle Montas**, journaliste de Radio Haïti Inter et veuve de **Jean Dominique**, suite au meurtre d'un de ses gardes du corps, M. Maxime Seide. Le Gouvernement a informé la Représentante spéciale qu'immédiatement après ce drame, certaines personnalités du Gouvernement se sont rendues sur les lieux. La Direction centrale de la police judiciaire a ouvert une enquête en vue d'appréhender les criminels pour les traduire en justice. Selon la réponse du Gouvernement, il paraît prématuré au stade de l'enquête d'établir un quelconque lien entre cette attaque et l'assassinat de Jean Dominique en avril 2000. Le Gouvernement informe également que Mme Montas continue d'exercer normalement sa profession et que le Gouvernement a pris de nombreuses mesures pour garantir sa sécurité, parmi lesquelles le renforcement de la sécurité autour de la Station de Radio Haïti Inter.

Observations

237. La Représentante spéciale remercie le Gouvernement pour la réponse reçue aux deux communications et pour l'action prise pour assurer la sécurité de Mme Montas.

Holy See

Communications sent

238. On 10 December 2002, the Special Representative sent an urgent action regarding the situation of **Don Vitaliano Della Sala**, a priest serving in the parish of San Giacomo in the region of Sant' Angelo à Scala, who has been removed from his functions. It is alleged that the decision to remove him was taken by Bishop Tarcisio Giovanni Nazzaro and was motivated, in part, by the participation of Don Vitaliano Della Sala in a "gay pride" march in defence of the human rights of homosexuals.

Communications received

239. By letter dated 24 June 2003, the Vatican responded to the communication sent by the Special Representative stating that the measures taken against **Don Vitaliano Della Sala** were not related to his participation in a "gay pride" march as alleged but for reasons which had been

duly communicated to him. It further stated that the measures had been preceded by two admonitions, as prescribed in the Code of canon law of the Catholic Church and that measures such as those taken were an expression of the self-organizing capacity proper to every religious community and recognized by the Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief.

Observations

240. The Special Representative thanks the Holy See for its response.

Honduras

Comunicaciones enviadas

241. El 22 de mayo de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la cuestión de la tortura y la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias con respecto a la situación de **miembros del Centro de Prevención, Tratamiento y Rehabilitación de las Víctimas de la Tortura y sus Familiares (CPTRT)**, una organización de derechos humanos que, además de llevar a cabo actividades de asistencia a las víctimas de tortura, investigaría y daría apoyo a investigaciones sobre delicados casos de violaciones de derechos humanos por parte de agentes de la policía. En particular, el CPTRT habría apoyado a María Luisa Borjas, antigua jefa de la Unidad de Asuntos Internos de la Policía Nacional, quien habría denunciado, en septiembre de 2002, la participación de miembros del Ministerio de Seguridad y de la Policía Nacional en la supuesta ejecución extrajudicial de al menos 20 jóvenes. Tras hacer públicas estas denuncias, María Luisa Borjas habría recibido amenazas de muerte por teléfono, su correo habría sido interceptado y, unos meses más tarde, habría sido destituida de su cargo. El CPTRT también estaría investigando las muertes que habrían ocurrido durante un motín en el centro penitenciario El Porvenir, departamento de La Ceiba, el 5 de abril de 2003. Se alega que en el curso de este incidente, supuestamente provocado por agentes de policía y guardianes de la prisión, unos 69 presos habrían fallecido. El 12 de mayo de 2003 por la mañana, las oficinas del CPTRT ubicadas en el barrio de San Rafael, Tegucigalpa, habrían sido saqueadas. Algunos documentos confidenciales y archivos informáticos también habrían sido escudriñados. Los intrusos habrían dejado un par de zapatos encima de una mesa, acto que, en Honduras, podría ser interpretado como una amenaza de muerte. Según la vice-directora del CPTRT, el saqueo de las oficinas está relacionado con las actividades del centro y tendría por objetivo la búsqueda de información confidencial y la intimidación de sus miembros.

242. El 26 de mayo de 2003, la Representante Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias con respecto a la situación de peligro en la que se encuentran el sacerdote **José Andrés Tamayo**, así como los dirigentes comunitarios **Gilberto Flores** y **Orlando Nájera**. Según las informaciones recibidas José Andrés Tamayo, sacerdote del municipio de Salamá, departamento de Olancho, promovería una campaña activa, junto con varias comunidades locales, contra la intensa deforestación y explotación de madera en la zona. En este contexto, el sacerdote habría recibido varias advertencias para que abandone el país antes de finales de mayo. Se alega que en cuatro

ocasiones distintas el 5 y 6 de mayo, el alcalde de Salamá habría declarado que «el problema ambiental en Olancho solamente se va a resolver mandando a matar al padre Tamayo. Según las informaciones recibidas un grupo de hombres poderosos, implicados en el negocio maderero en el departamento, estarían instigando las amenazas y advertencias contra el sacerdote. El 19 de mayo, éstos le habrían pedido a las autoridades que tomen medidas para obligar al sacerdote a abandonar Honduras. Asimismo, se recibió información que indica que los dirigentes comunitarios Gilberto Flores y Orlando Nájera, promotores de una campaña contra la construcción de una presa hidroeléctrica en el departamento de Olancho, habrían sido intimidados por policías y autoridades locales. Según las informaciones recibidas, recientemente algunos policías habrían realizado varios disparos al aire cuando se encontraban delante de la casa de Orlando Nájera en la comunidad de Ocotol, municipio de Gualaco. Se teme que las presuntas amenazas antes mencionadas estarían relacionadas con el activismo de las personas mencionadas en favor de la protección del medio ambiente en el departamento de Olancho.

243. El 29 de julio de 2003, la Representante Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias con respecto a la situación de los activistas medioambientales **Gilberto Flores**, dirigente comunitario y **Osmin Flores**, sacerdote, conocidos por sus esfuerzos para proteger el entorno natural en el departamento de Olancho. Al igual que otros activistas medioambientales que trabajan en el mismo departamento, habrían recibido amenazas de muerte y se han expresado temores por su seguridad. El caso de Gilberto Flores fue considerado por la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos en un llamamiento urgente con fecha de 26 de mayo de 2003, en el cual se indicaba que habría sido intimidado por agentes de policía y autoridades locales en relación con su campaña contra la continuación de una presa hidroeléctrica en el departamento de Olancho. De acuerdo con la información recibida, el 20 de junio de 2003, el Ministerio de Seguridad habría retirado la protección policial a Gilberto Flores recomendada por la Comisión Interamericana de Derechos Humanos en mayo de 2003. El 14 de julio de 2003, un grupo de hombres armados, quienes se encontraban en el interior de un vehículo desprovisto de matrícula y con vidrios polarizados, habrían apuntado sus armas contra Gilberto Flores cuando éste entraba en las oficinas de la Pastoral Social del municipio de Juticalpa. Se alega que la presencia de un menor les habría hecho desistir de la acción en aquel momento. Sin embargo, durante los dos días que siguieron al incidente, el mismo vehículo y otro de características similares habrían sido aparcados en frente de las mismas oficinas. Por su parte, Osmin Flores habría sido víctima de varias amenazas. El 18 de julio de 2003, habría sido objeto de vigilancia por parte de un grupo de hombres armados quienes habrían aparcado su vehículo en frente de su residencia. Al reportar los hechos, la policía habría argumentado que aunque el vehículo tenía un aspecto sospechoso no se podía detener a los ocupantes puesto que no habían hecho nada ilegal. De acuerdo con las informaciones recibidas, los nombres de Gilberto y Osmin Flores figuraban en una lista de personas amenazadas de muerte al parecer elaborada por propietarios de diversos aserraderos de la región. En esta lista figuraba también **Carlos Arturo Reyes**, un activista que trabajaba para la Pastoral Social en defensa del medio ambiente y que habría sido asesinado el 18 de junio de 2003 en su residencia en el municipio de Rosario después de haber recibido amenazas.

244. El 25 de septiembre de 2003, la Representante Especial envió un llamamiento urgente con respecto a la situación de **Elkyn Suárez Mejía**, persona transexual conocida como "la

China", de quien se dice que es miembro de la Comunidad Gay Sampedrana y que habría sido testigo en un caso de homicidio. Según las informaciones recibidas, el 15 de julio de 2003, Erick David Yáñez, persona que también sería transexual, conocida como "Ericka" y miembro de la ONG Comunidad Gay Sampedrana, habría sido asesinada en la ciudad de San Pedro Sula por dos policías. Según las informaciones recibidas, Elkyn Suárez Mejía ("la China") habría tenido conocimiento de las personas implicadas en el suceso de tal homicidio. Elkyn Suárez Mejía habría denunciado los hechos ante las autoridades y habría desempeñado un papel clave en la investigación posterior. Su testimonio habría conducido a la detención y acusación de dos policías. Se alega que el 5 de agosto, "la China" y otros transexuales se habrían encontrado en la calle donde trabajaban cuando un vehículo blanco de la marca Isuzu Trooper, sin placas de matrícula y otros tres vehículos patrulla pertenecientes a la Policía Preventiva se habrían acercado a ellas. Uno de sus ocupantes habría hecho una señal a "la China" para que se acercara, y le habría advertido que disponía de 24 horas para retirar la denuncia y que iría a su casa por la tarde para que le diera una respuesta. El agente de policía se habría presentado en el domicilio de "la China" a las 18.15. "La China" habría contestado que iría a retirar la denuncia sola, pero no lo habría hecho. Tras las amenazas, la Fiscalía General habría solicitado al Director general de la policía en San Pedro Sula que proporcionara protección a la testigo Elkyn Suárez, y finalmente se le habría asignado protección policial durante 24 horas. El agente de policía acusado del homicidio, se habría fugado a mediados de agosto. El 28 de agosto, Elkyn Suárez ("la China") habría sido informada por la Oficina del Fiscal Especial de Derechos Humanos de la Fiscalía General de que se le iba a retirar la protección policial, según los informes, a petición de representantes de la policía local. Se alega que la retirada de protección implica un serio peligro para Elkyn Suárez y que podría ser perjudicial para el correcto procesamiento de los responsables de la muerte de Erick David Yáñez.

245. El 8 de octubre de 2003, la Representante Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, el Relator Especial sobre la cuestión de la tortura, 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 con respecto a la situación de **Marcelino Miranda y Leonardo Miranda**, dos hermanos dirigentes indígenas del Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (COPINH), así como sobre su abogado **Marcelino Martínez Espinal**, antiguo miembro de la ONG Comité de Familiares de Detenidos-Desaparecidos en Honduras (COFADEH). Marcelino y Leonardo Miranda habrían sido detenidos el 8 de febrero de 2003 por agentes armados de policía. Ambos habrían sido inicialmente acusados de usurpación de tierras, lesiones y homicidio. Además Marcelino Miranda habría sido acusado de hurto de ganado mayor y daños y Leonardo Miranda de "atentado contra el Estado de Honduras". Varios de estos cargos se habrían retirado y actualmente, los dos hermanos se enfrentarían a los cargos de lesiones y asesinato. En el momento de su detención y durante su reclusión en la prisión de Gracias, departamento de Lempira, habrían sido sometidos a actos de tortura. En este contexto, la Fiscalía Especial de las Etnias habría presentado una querrela contra varios policías por tortura y abuso de autoridad durante su detención. Sin embargo, según la información recibida, hasta la fecha, no se habrían realizado progresos en la investigación. Se informa que el 2 de junio de 2003, dos miembros del departamento de asuntos internos de la policía habrían visitado a Marcelino y Leonardo Miranda amenazando de muerte a Leonardo si no aceptaba los cargos en su contra. En relación con la situación de peligro en la que se encontraría Marcelino Martínez Espinal, de acuerdo con las informaciones recibidas, el 22 de

julio de 2003, personas no identificadas habrían llevado a cabo diversas averiguaciones sobre el abogado Marcelino Martínez que incluirían detalles sobre su vehículo. También se informó de que los mismos individuos habrían realizado comentarios despectivos en relación con el abogado. Asimismo se informó de que, el 18 de septiembre de 2003, un vehículo Toyota rojo con los cristales tintados y sin placas de matrícula habría seguido al automóvil del abogado Marcelino Martínez en momentos en que se dirigía a efectuar una visita a los mencionados dirigentes indígenas en la prisión de Gracias. Finalmente, se informó que estos actos de intimidación afectarían la labor del abogado Marcelino Martínez, quien habría manifestado no sentirse capaz de continuar con las visitas a los dirigentes indígenas detenidos por razones de seguridad personal.

Alegaciones

246. La Representante Especial y la Relatora Especial fueron informadas de que el 26 de agosto de 2002 desconocidos habrían asesinado a **J. Santos Callejas**, tesorero de una directiva regional del **Comité para la Defensa de los Derechos Humanos** en Honduras y **Coordinador de la Oficina del Defensor de la Niñez en la alcaldía del municipio de la Másica**, Atlántida. Según informaciones proporcionadas, algunos sujetos le habrían disparado utilizando fusiles AK-47, cuando salía de la escuela en la que prestaba sus servicios como alfabetizador. Según la información proporcionada, J. Santos Callejas atendía a las víctimas de la violencia presuntamente perpetrada por redes criminales y terratenientes en la región.

247. Según informaciones proporcionadas a la Representante Especial y la Relatora Especial, tras la visita de esta última a Honduras, varios miembros de la organización **Xibalba** habrían sido intimidados y amenazados por desconocidos que se desplazan en vehículos con vidrios polarizados. En este contexto **Sandra Isabel Romero Barahona**, encargada de relaciones públicas en Xibalba, habría sido víctima de un intento de asesinato y repetidas amenazas. Según las informaciones proporcionadas a raíz de estos incidentes Sandra Isabel Romero Barahona se habría sentido en la obligación de salir de Honduras para pedir asilo en México.

248. La Representante Especial ha recibido informaciones sobre la situación de la organización de los **Gays, Lesbianas, Bisexuales, Travestís, Transgéneros y Transexuales (LGBT)**. El 4 de abril de 2000, el Grupo Prisma de la organización de LGBT habría solicitado la personería jurídica y la aprobación de sus estatutos al Ministerio de Interior y Justicia. En la solicitud se habrían reseñado los objetivos de la organización, entre los cuales se encontraría el de agrupar la comunidad LGBT de Tegucigalpa para emprender actividades que permitieran fomentar la autoestima de la comunidad. El 2 de agosto, el Departamento de Servicios Jurídicos habría emitido un dictamen por el cual se denegaba la petición porque los estatutos violentaban la moral y el orden público.

Comunicaciones recibidas

249. Por carta fechada el 29 de julio, el Gobierno contestó a la comunicación transmitida por la Representante Especial en relación con **José Andrés Tamayo** y los dirigentes comunitarios **Gilberto Flores** y **Orlando Nájera**. Informó que el 22 de julio el Presidente de la República se reunió con representantes de los grupos ambientalistas de Olancho, encabezados por José Andrés Tamayo y además envió los Ministros de Gobernación y Justicia y Seguridad para ofrecer

seguridad al padre Tamayo tanto como a los otros activistas. En adición, el Presidente del Congreso, Porfirio Lobo, organizó una reunión en Juticalpa entre los ambientalistas y los funcionarios de la Corporación Hondureña de Desarrollo Forestal donde llegaron a decidir sobre las medidas a tomar –entre ellas una mayor participación de los municipios en los beneficios del bosque y en la auditoría de los planes de manejo del bosque. También fue creada una Comisión Evaluadora sobre la situación forestal en la región y el Presidente iba a hacer una declaración pública y fuerte contra la violencia en Olancho.

250. Respecto a las amenazas contra el abogado **José Leonardo Miranda Espinoza**, el Gobierno informó que una denuncia fue interpuesta el 16 de octubre ante la Dirección General de Investigación Criminal de Gracias Lampira y un requerimiento de investigación había sido emitido el 28 de octubre a la Dirección General de Investigación Criminal. La investigación sigue en curso.

251. Por carta fechada el 27 de octubre, el Gobierno contestó a la comunicación transmitida por la Representante Especial en relación con **Elkyn Suárez**. El Gobierno afirmó que la Fiscal Especial Regional de los Derechos Humanos en San Pedro Sula había realizado una serie de diligencias a fin de hacer averiguaciones sobre la muerte de Eric David Yáñez, las cuales concluyeron que los policías Jairo Mejía Castillo y Carlos Iván Contreras participaron en el delito de homicidio. Un formal requerimiento fiscal contra los policías fue presentado por el ministerio público el 24 de julio y con fecha 20 agosto la Fiscalía Especial Regional de los Derechos Humanos solicitó al Juzgado de Letras de lo Penal de la Sección Judicial de San Pedro Sula que se tomara la declaración al testigo **Elkyn Suarez** y el 21 de agosto se llevó a cabo la audiencia inicial en dicho juicio, compareciendo únicamente el imputado Jairo Mejía Castillo y no así Carlos Ivan Contreras que se había fugado del lugar en el cual estaba detenido.

252. Por carta fechada el 19 de diciembre de 2003, el Gobierno informó a la Representante Especial respecto al llamamiento urgente enviado el 8 de octubre sobre **Marcelino Miranda y Leonardo Miranda** y del abogado **Marcelino Martínez Espinal**. El Gobierno estableció que varias investigaciones acerca de las denuncias habían sido iniciadas. Con respecto a los delitos cometidos contra los hermanos Leonardo Miranda y Marcelino Miranda, el Gobierno informó que un requerimiento fiscal fue presentado ante el Juzgado Primera de Letras Departamental de Gracias contra 28 personas por suponerles responsables de cometer delitos de abuso de autoridad, torturas, lesiones y daño en perjuicio de Marcelino Miranda, Leonardo Miranda y la comunidad indígena de Planes de Montaña Verde. Hizo saber que la audiencia inicial se celebró el 23 de septiembre, en la cual, el juzgador ordenó el sobreseimiento definitivo a favor de los imputados. Con fecha 29 de septiembre la Fiscalía interpuso recurso de reposición y subsidiaria apelación ante la Corte de Apelaciones de Santa Rosa de Copán y el 29 de octubre, la misma Corte reformó el sobreseimiento definitivo dictado por el Juzgado de Primera Instancia y ordenó que el mismo se decreta de manera provisional. Con respecto a las acusaciones contra **Marcelino Miranda y Leonardo Miranda**, el Gobierno hizo saber que pronto se dictará sentencia por cargos de tentativa de homicidio, asesinato y con respecto al cargo de lesiones y atentado.

Observaciones

253. La Representante Especial quisiera agradecer las respuestas del Gobierno, y las acciones tomadas. La Representante Especial lamenta no haber recibido respuestas a algunas de sus

comunicaciones y también lamenta las amenazas de muerte supuestamente dirigidas contra los defensores de derechos humanos.

India

Communications sent

254. On 15 September 2003, the Special Representative, in conjunction with the Special Rapporteur on extrajudicial, summary or arbitrary executions, transmitted an urgent appeal regarding **Teesta Setalvad, Rais Khan Azeekhan Pathan and Suhel Tirmizi**. As members of the civil society organization Citizens for Justice and Peace, they reportedly helped document and expose the participation of the police and other government officials during the anti-Muslim violence in Gujarat. They also allegedly assisted the National Human Rights Commission in its inquiry into the massacres, in particular the so-called “Best Bakery” case. On 29 August 2003, Pathan was allegedly surrounded and physically threatened by a group of Hindu nationalists while he escorted witnesses to an official inquiry into the massacres. Zahira Sheikh, a prime witness in the “Best Bakery” case, allegedly said on 11 July 2003 that she was forced to change her testimony as a result of threats against her during the trial. On 20 August 2003, the three human rights defenders allegedly requested police protection from Gujarat’s chief secretary and director-general of police and the police commissioner of Ahmedabad. There was reportedly no reply to that request to date. They also reportedly filed an application for protection before the Supreme Court of India on 1 September 2003.

255. On 13 November 2003, the Special Representative sent a further urgent appeal regarding alleged death threats against **Rais Khan Azeekhan Pathan**, coordinator of the Citizens for Justice and Peace, a civil society organization based in Ahmedabad, Gujarat, which has been working to help document and expose the alleged participation of police and other government officials during reported anti-Muslim violence in Gujarat. According to the information received, on 4 November 2003, at approximately 9.30, Rais Khan Azeekhan Pathan allegedly received a call on his mobile phone during a visit to the town of Viramgam to investigate the alleged killing of three civilians by police fire during an outbreak of communal violence in the area on 2 November 2003. The caller reportedly informed Mr. Pathan that his visit to the area had “vitiating the atmosphere” and allegedly threatened him with death if he did not leave the State. It is reported that on 7 November 2003, at approximately 17.30, he received another similar threat. According to the information received, a complaint regarding the threats has reportedly been lodged with the Director-General of the Police of Gujarat. Mr. Pathan is reported to have already been subjected to death threats, along with his colleagues. They were the subject of an urgent appeal by the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative of the Secretary-General on the situation of human rights defenders sent on 15 September 2003. While the Special Representative and the Special Rapporteur welcomed the fact that Mr. Pathan and his colleagues were granted police protection after filing an application in the Supreme Court on 1 September 2003, concern has been expressed he is still being targeted on account of his human rights work. Concern has equally been expressed that other human rights defenders working with Mr. Pathan may also be at risk.

256. On 13 November 2003, the Special Representative sent an urgent appeal regarding the situation of **Mallika Sarabhai**, director of the Darpana Academy, an arts centre which uses artistic expression to draw attention to social issues. According to the information received, on 1 April 2002, Mallika Sarabhai allegedly filed a public interest litigation in relation to the inaction of local authorities to reported killings of Muslims in Gujarat. In April and May 2002, Mallika's brother was allegedly telephoned several times by the then Minister for Health, and pressured to persuade her to drop the case. On 16 April 2003, an article in the Gujarat newspaper *Sandesh* allegedly accused Mallika Sarabhai of reportedly fraudulently attempting to bring people to the United States under the cover of a dancing tour. This article was reportedly related to the Darpana Academy cancelling the part of a dancing tour in the United States, after the United States consulate and Darpana reportedly became suspicious as to the motives of the students participating in it and in view of the fact that students on a previous tour had reportedly illegally remained in the United States. Most of the money was reportedly returned to the students, except for a non-refundable tuition fee. On 18 October 2003, one of the Darpana Academy students reportedly filed a complaint with the police, accusing Mallika Sarabhai of promising against payment of money to help her to immigrate illegally to the United States while on a dancing tour. It is alleged that at least seven of the students mentioned in the complaint have since then stated that they had no complaint against Mallika Sarabhai, and that they never consented to having their names used. The case against Mallika Sarabhai is reportedly scheduled to be heard on 14 November 2003. Concern has been expressed that the alleged prosecution and media campaign against Mallika Sarabhai may have been a form of reprisal against her filing a public interest litigation on 1 April 2002. This concern is heightened by reports that on 30 June 2003, the Press Council of India reportedly asked *Sandesh* to withdraw the defamatory statements made against her in 2002. Concern is equally heightened by reports that after a previous public interest litigation filed by Mallika Sarabhai in February 2001 in relation to alleged official corruption in handling earthquake relief funds, the then Minister for Health allegedly telephoned her and her brother on several occasions in March and April 2001, in an effort to try to persuade them to drop the case.

257. On 29 July 2003, the Special Representative transmitted an urgent appeal on the situation of **Dr. Debabrata Roy Laifungbam**, Director of the Health and Human Rights Section of the Centre for Organisation Research and Education (CORE) and **Dr. Lamabam Pardesi**, Convenor of the Committee on Human Rights (COHR). Both of these human rights defenders were reportedly summoned to appear before the police. Concern was expressed that the summons are related to statements reportedly made by COHR on 6, 13 and 14 July 2003 on the alleged extra-judicial execution of Mr. Ningthoujam Mangoljao by State police. This alleged execution was the subject of an urgent appeal issued by the Special Rapporteur on extra-judicial, arbitrary or summary execution on 6 July 2003. Dr Laifungbam was reportedly summoned by the Imphal West Police Station on 14 July 2003, to appear the same day before the Lamphel Police Station (Imphal, Manipur) under section 166 of the Criminal Procedure Code. The summons was reportedly received in his absence at his residence by his mother, who was reportedly questioned about her son's work and family situation. Dr. Pardesi reportedly went to Lamphel Police Station in response to a summons issued on 14 July 2003, and was allegedly asked to dismiss the allegation reportedly issued by COHR on the same day that Ningthoujam Maangoljao was killed in police custody. Dr. Pardesi has reportedly continued to receive calls from the police station to report to Lamphel Police Station. Concern has been expressed that the summons may also be a response to a recent press statement by Dr. Laifungbam regarding police use of firearms in the

case of Naoram Nanao, who was reportedly shot and injured by police on 24 June 2003. The Senior Superintendent of Police (Imphal West) allegedly wrote to CORE enquiring, inter alia, as to the source of information for the press release. Both the Health and Human Rights Section of CORE and COHR are reportedly working to protect the rights of indigenous peoples in North East India.

Observations

258. 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 calls on the Government to take all necessary measures to ensure that the rights enshrined in the Declaration on human rights defenders are respected. She regrets that no response has yet been received to her request for an invitation to conduct an official visit, first sent on 8 July 2002 and renewed on 14 October 2003.

Indonesia

Communications sent

259. On 2 April 2003, 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 **Mukhlis Ishak**, aged 27, and **Zulfikar**, members of the non-governmental organization Link for Community Development (LCD), which assists internally displaced people. According to information received, Mukhlis Ishak and Zulfikar were detained on the morning of 25 March 2003 by plain-clothes men. They were reportedly arrested while accompanying villagers, who were demonstrating outside the office of the District Head (Bupati) of Bireuen District, to protest against plans to establish a Police Mobile Brigade (Brimob) post in their village. They are believed to be detained by the Indonesian Military, Tentara Nasional Indonesia, and held in the SGI military post in Bireuen District, Nanggroe Aceh Darussalam Province.

260. On 23 May 2003, the Special Representative transmitted an urgent appeal concerning the alleged disappearance of **Abdussalam Muhamad Deli**, a member of the East Aceh branch of the Human Rights and Legal Aid Post (PB-HAM) and the Indonesian Red Cross (Palang Merah Indonesia, PMI). On 11 May, Abdussalam Muhamad Deli was allegedly forced out of a bus and into a vehicle with tinted windows in Langsa Lama Village, in the Nanggroe Aceh Darussalam (NAD) Province, by unidentified armed men. The vehicle was then reportedly driven towards Langsa Town. Local organizations allegedly enquired about Abdussalam Muhamad Deli's whereabouts of the local police and military, who reportedly denied holding him. According to information received, the alleged disappearance of Abdussalam Muhamad Deli may be related to his activism against human rights violations in NAD Province. On the same day, **Raja Ismail**, also a volunteer with PB-HAM East Aceh, reportedly went missing after leaving his home in Kuala Simpang village, allegedly to deliver information on human rights violations to the PB-HAM in Langsa town. His body was reportedly found on 13 May in the Titi Kembar River in Langsa Lama village, raising fears about Abdussalam Muhamad Deli's safety.

261. On 6 June 2003, the Special Representative, together with the Special Rapporteur on the question of torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention, transmitted an urgent appeal concerning **M. Riza Falevi Kirani, Fuadi, Yudi Feriza, Taurisman, Jakfaruddin, Fayasar, Zainal Abidin, Iskandar, Jakiyatuddin, Yusran, T. Bahrum and Fakhruzazi**, students at IAIN Ar-Raniry University, **Mulyadi Rusydi**, a former student at IAIN Ar-Raniry University, and internally displaced persons, **Pak Harun, Muliadi and Adam**. They were reportedly arrested and brought to an unknown place on 24 May 2003 in Banda Aceh, Nanggroe Aceh Darussalam (NAD) Province, by members of the Police Mobile Brigade (Brimob), during a two-hour raid on a student activities centre. The detainees were allegedly accused by the military of belonging to the Free Aceh Movement (GAM), a pro-independence armed opposition group. According to the information received, three of the arrested students are believed to be volunteers with the Indonesian Red Cross and five of them to be activists in an environmental group. In view of the alleged incommunicado detention of the above-mentioned persons in an unknown place, concerns were expressed for their physical and mental integrity.

262. On 10 June 2003, the Special Representative sent an urgent appeal concerning the alleged recent attacks against the offices of two Jakarta-based human rights organizations: Kontras (the Commission for Disappearances and Victims of Violence) and Perhimpunan Bantuan Hukum dan Hak Asasi Manusia Indonesia (the Indonesian Legal Aid and Human Rights Association, PBHI). According to the information received, on 26 May 2003, approximately 20 members of a youth association, with reported links to the Indonesian military, allegedly came to Kontras's headquarters in central Jakarta and physically assaulted **Usman Hamid**, a Kontras senior staff member. A group of approximately 100 people allegedly returned the following day and reportedly assaulted Usman Hamid again, together with two other staff members, **Ori Rahman and Gian Moko**. The office was allegedly vandalized and some equipment destroyed. The police allegedly failed to intervene, despite having been informed of the attacks by Kontras staff. Later the same day, the same group allegedly attacked the offices of PBHI, reportedly demanding to see its Executive Director, Hendardi, and another senior staff member, Johnson Panjaitan. Neither were in the office at the time, but six staff members were allegedly verbally, and in one case physically, assaulted. While the attacks have been condemned by the authorities, the Commander of the Indonesian Armed Forces allegedly publicly declared that, although the attacks may represent a violation of the law, Kontras should reflect upon the reason for these attacks. According to the information received, these attacks against Kontras and PBHI may be linked to their human rights activities, in particular their public criticism of the actions of the security forces and their opposition to the current military emergency in parts of the country.

263. On 25 June 2003, the Special Representative, together with the Special Rapporteur on the question of torture and the Special Rapporteur on the independence of judges and lawyers, transmitted an urgent appeal regarding **Nuraini** (f), Volunteer Coordinator of the Commission for Involuntary Disappearances and Victims of Violence in Aceh (Kontras), **Zakaria Ismail**, her 65-year-old father, and **Zulkifli**, a 50-year-old neighbour, who were reportedly arrested and detained on 19 June 2003 at around 5 a.m. in Lueng Dama Village, Pidie District, by members of the military from Delima Sub-district Military Command and police officers from Delima Police Sector. Nuraini and Zakaria Ismail were allegedly blindfolded and beaten and their house searched. They are reportedly believed to have been taken to Polsek Delima. Zakaria Ismail was

allegedly accused by the military commander of Pidie District of being a former member of the armed group Free Aceh Movement (GAM) and Zulkifli of being a fund-raiser for GAM. (Since the declaration of a military emergency on 19 May 2003, members of Kontras and other human rights organizations have reportedly been directly warned by the local military commander that they will be targeted for arrest.) The three persons named above were then allegedly detained in incommunicado detention in Nanggroe Aceh Darussalam Province (NAD).

264. On 3 July 2003, the Special Representative, together with the Special Rapporteur on the question of torture, transmitted an urgent appeal reiterating her concerns about **Nuraini, Zakaria Ismail and Zulkifli**, and expressing concern that according to more recent information, Nuraini was transferred from police detention in Pidie District to the Police Headquarters (Polda) in Banda Aceh, Nanggroe Aceh Darussalam (NAD) Province on 28 June, where it is believed she was beaten and forced to strip. She was reportedly visited by lawyers there. The Special Representative also expressed concern about information received with regard to **Asiah** (f), Coordinator of Investigations for the Commission for Involuntary Disappearances and Victims of Violence (Kontras), **Afridal Darmi** and **Syarifa Murlina** (f), both lawyers for the Aceh Branch of Legal Aid Association (LBH-Aceh), as well as other members of Kontras and LBH-Aceh. It was alleged that on 28 June 2003, seven men in plain clothes, but who are thought to be members of the Police Mobile Brigade (Brimob) visited the offices of LBH-Aceh on two occasions. The first time they reportedly indicated they were looking for Asiah, the second time, Afridal Darmi and Syarif Murlina, who were also not present at the time. The men allegedly proceeded to search the office, breaking down a door and throwing things onto the floor, and reportedly left saying that they would return. According to the information received, the enquiries about Asiah relate to her role in gathering information on human rights violations, and the men's reported interest in Afridal Darmi and Syarif Murlina may be related to the work of LBH-Aceh providing legal representation to detainees and prisoners, including Nuraini. The Special Rapporteur expressed concern that given the alleged ill-treatment of Nuraini, Afridal Darmi and Syarif Murlina might be arrested and subjected to similar ill-treatment.

265. On 22 August 2003, the Special Representative transmitted an urgent appeal regarding **Asraf** (m), **Hermanto** (m), **Imam** (m), **Risma** (f) **Irawati** (f), **Juanda** (m) and **Linda Wahina** (f), all reportedly members of the People's Crisis Centre (PCC), an Aceh-based organization which distributes aid to internally displaced persons and monitors human rights violations. On the morning of 13 August 2003 about eight unarmed plain-clothes officials of the Regional Military Emergency Administrator (Satgas PDMD) allegedly arrived at the PCC office in Banda Aceh. The officials reportedly introduced themselves as members of Satgas PDMD and asked to see Mr. Imam and Ms. Risma. Neither was reportedly present at the time and the officials reportedly left to return later, at around 3 p.m. On this second visit, the officials allegedly detained Messrs Asraf, Hermanto and Imam, and Ms. Risma, and allegedly took them to the Satgas PDMD base, where they were allegedly interrogated for approximately five hours on the activities of their organization, its financial arrangements and its relationship with other organizations. The four were reportedly also questioned about the activities of Mr. Juanda and required to provide the telephone numbers of the office, as well as the mobile telephone numbers of the staff. After the interrogation, these persons were reportedly returned to the PCC office, but were told that they would be summoned to the Satgas base on the following day, together with Ms. Irawati and Ms. Linda Wahina. As at 15 August, the PCC staff had reportedly not been contacted, but reportedly remained concerned that they could be summoned at any time.

266. On 10 October 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 allegation letter on the cases below.

267. **Susyanti Kamil, An'am Jaya, Sahabuddin, Ansar Suherman, Hariansyah and Muhammad Akman**, activists with the Governing Front of the Poor, a coalition of Indonesian political organizations, reportedly participated in a peaceful demonstration in Kendari town, South-east Sulawesi Province, on 23 January 2003. On 25 January 2003, the police allegedly arrived at the house where Susyanti Kamil, An'am Jaya, Sahabuddin, Ansar Suherman, Hariansyah, and Muhammad Akman were sleeping at 2 a.m. with three arrest warrants. It is alleged that despite only having three arrest warrants, the police arrested all six people who were in the house at that time. According to the information received, Susyanti Kamil, An'am Jaya, Sahabuddin, Ansar Suherman, Hariansyah and Muhammad Akman were taken to Kendari Police resort (Polres) where they were allegedly beaten by police officers, had objects thrown at them and were interrogated, often at night. The six were reportedly allowed only very restricted access to lawyers. It is alleged that on one occasion, on 14 February 2003, Sahabuddin was beaten repeatedly at two-hourly intervals for a period of around 11 hours. Although one police officer was reportedly transferred to another police station as a result, it is alleged that no further disciplinary steps were taken. On 20 March 2003, Susyanti Kamil, An'am Jaya, Sahabuddin, Ansar Suherman, Hariansyah and Muhammad Akman were allegedly moved to Kendari Prison after formal charges were filed against them. It is reported that access to families and lawyers has since improved although they reportedly continue to be beaten. Their trial reportedly began on 8 April 2003, and on 4 June 2003 all six were reportedly sentenced to four months and fifteen days in prison for "insulting the President". They were reportedly released five days after sentencing for having already served the time in pre-trial detention. Concern has been expressed that these defenders were sentenced solely because of participating in a peaceful demonstration in favour of the rights of the poor.

268. **Amrisaldin**, a 24-year-old volunteer with the humanitarian organization, Save Emergency for Aceh (SEFA), was reportedly detained by members of Brimob during a "stop and search" operation in Meukek Sub-district, South Aceh. It is alleged that during his detention in the Meukek Police Sektor (Polsek), Amrisaldin was interrogated and tortured for several hours from 21.45 on 5 September 2000 until 04.00 on 6 September 2000. According to the information received, Amrisaldin's forehead was cut with a knife, his pubic, chest and armpit hair was burnt with matches, he was punched in the mouth and kicked in the ear and stomach, and he was threatened with death. It is alleged that Amrisaldin was also accused of being a GAM activist. Before being released, he allegedly had to sign a letter in which he promised not to make public the treatment he had suffered. He was also reportedly ordered to stay in Tapaktuan Sub-district in South Aceh for five days and to report to the South Aceh District Police Resort (Polres). Concern has been expressed that Amrisaldin's alleged detention and torture may have been a response to a report he was preparing on alleged human rights violations by the security forces against internally displaced persons (IDPs) in South Aceh and because he was carrying medical supplies for distribution among IDPs in the district.

269. On 13 October 2003, the Special Representative transmitted a letter of allegation regarding the alleged arrest, secret detention and torture of **Anwar Yusuf**, a volunteer with the

human rights group, FP HAM. According to the information received, on 3 February 1999, Anwar Yusuf was investigating an incident in which the military allegedly opened fire on unarmed civilians making their way home from a pro-independence meeting in Matang Ulim, Idi Cut, East Aceh. His investigations reportedly included a visit to the Arakundo River where the victims' bodies were allegedly found. On 7 February 1999, Anwar Yusuf was allegedly arrested at his home in East Aceh by men who identified themselves as belonging to Idi Rayeuk Sub-district Military Command (Koramil). According to the information received, Anwar Yusuf was taken to Koramil and then to a private house where he was interrogated by four members of the TNI about his visit to the Arakundo River and was accused of being a member of GAM. During his interrogation, it is alleged that Anwar Yusuf was beaten with a wooden block, a broom and a chair, had hot coffee poured over him and was forced to squat on the floor with a wooden block wedged behind his knees. He was also allegedly threatened that he would be shot. Anwar Yusuf's mother reportedly tried to trace him at both Koramil and the police station from which he was ultimately released, and officials in both places allegedly denied any knowledge of his whereabouts. On 8 February 1999, Anwar Yusuf was reportedly transferred to the East Aceh District Military Command (Kodim), and on 10 February 1999, he was reportedly taken into police custody, and then released without charge. Concern has been expressed that Anwar Yusuf was targeted because of his work as a human rights defender, in particular because of his investigations of the alleged incident on 3 February 1999.

270. On 13 October 2003 the Special Representative transmitted a letter of allegation regarding the alleged killing and torture of **Idriss, Ernita binti Wahab, Bakhtiar** and **Nazaruddin** all of whom work for the NGO Rehabilitation Action for Torture Victims in Aceh (RATA). According to the information received, on 6 December 2000, these four men were on their way by car to visit some patients in Jambu Air at around 12.30, when they were forced to stop by a Taft make of car with a black top, which allegedly stopped in front of them. Two other cars allegedly stopped behind them, one green Kijang and another darker car. It is alleged that a group of at least 14 men in the three cars, who appeared to be soldiers, abducted them and interrogated them on their work, accusing them of being sympathizers with the Free Aceh Movement (GAM). The four men were allegedly beaten with rifle butts and driven to two military command posts. According to our information, the men were then reportedly driven to the Kandang High School, SMA Kandang, where their hands were tied. Idris and Ernita were reportedly forced to lie down and were then allegedly shot. One of the abductors reportedly filmed the executions on a video camera. Nazaruddin reportedly managed to get his hands untied and run away. The abductors reportedly shot after him and then shot and killed Bachtiar. Concern has been expressed that these men were targeted because of their work in counselling victims of torture.

271. On 29 October 2003, the Special Representative transmitted an allegation regarding the alleged break-up of a training workshop on human rights monitoring facilitated by **MM Billah**, director of a body appointed by the Human Rights Commission (KOMNAS HAM), which conducts human rights monitoring in Aceh since the imposition of martial law on 19 May 2003. According to the information received, the training workshop was scheduled to be held from 19 to 23 October 2003 in Pavilion Seulawah, Banda Aceh. The martial law authority, PDMD, and the police authority in Banda Aceh, Polresta, were reportedly informed in advance. On 20 October 2003, two military representatives from PDMD were reportedly included in the morning session, having reportedly requested permission to participate. The two military representatives

reportedly left the training workshop at the lunch break. According to the information received, at 15.00, about 20 soldiers and 20 police officers reportedly arrived at the training workshop. It is alleged that the military and police turned off the lights in order to prevent the workshop from continuing. They then allegedly attempted to enter the workshop, and requested a list of the participants, but MM Billah reportedly prevented them from entering and refused to give them a list. Concern has been expressed that the training workshop was targeted because of its human rights content. Concern has equally been expressed as to the safety of the training participants, having regard to the alleged request for a list of participants in the workshop.

Communications received

272. By letter dated 14 July 2003, the Government responded to an urgent appeal sent by the Special Representative on 10 June 2003 regarding the alleged attacks on **Kontras** (the Commission for Disappearances and Victims of Violence) and Perhimpunan Bantuan Hukum dan Hak Asasi Manusia Indonesia (the Indonesian Legal Aid and Human Rights Association, PBHI). The Government informed the Special Representative that, following information received from the police headquarters, it could confirm that contrary to the allegations made, the incident on 26 May had been a peaceful demonstration held by members of the Pemuda Panca Marga (PPM) outside the office of Kontras. It could also confirm that a similar demonstration on 27 May did in fact turn violent and that members and the property of both the aforementioned organizations had been attacked. However, the Government informed the Special Representative that, contrary to the allegations made, the police had done their utmost to monitor the protests and prevent the violence and as a result seven people had been detained in connection with the incident and a full dossier had been completed.

Observations

273. The Special Representative thanks the Government for its reply regarding the alleged attacks on Kontras and PBHI. She strongly regrets, however, the absence of replies to her many other communications, preventing her from taking into consideration the Government's analysis of the alleged facts in these cases. Based on the information that she has received, the Special Representative is deeply concerned by the very large number of violations allegedly committed against human rights defenders in Indonesia, including most notably the alleged killing, disappearance, beating, arrest and detention of defenders by security forces in Aceh. The Special Representative urges the Government to make every effort to implement the standards set out in the Declaration on human rights defenders and would welcome additional efforts by the Government to enter into a dialogue with her in this regard.

Iran (Islamic Republic of)

Communications sent

274. On 25 June 2003, the Special Representative, together with the Special Rapporteur on the question of torture, transmitted an urgent appeal concerning **Manuchehr Mohamaddi**, a student activist affiliated to the National Union of Students and Graduates (*Ettehadiyeh Melli-ye Daneshjouyan va Fareqoltahsilan-e Iran*), who was reportedly arrested on 13 July 1999 in

connection with his participation in student demonstrations against press laws limiting freedom of expression and the closure of the newspaper *Salam* ("Peace"). According to the information received, he was removed from Evin Prison, Tehran, to an undisclosed location after he had returned to the prison following a six- day temporary leave. During his leave, he reportedly gave radio and television interviews and stated that people from Iran should struggle for freedom and democracy in a non-violent manner. Shortly after his return to prison on 17 June 2003 he was allegedly beaten by officials from the Revolutionary Guard, who are thought to have strongly criticized the media interviews he had given.

275. On 20 November 2003, the Special Representative, together with the Special Rapporteur on the question of torture, sent an urgent appeal concerning the alleged imprisonment of **Ahmed Batebi**, a student activist, during an approved period of leave from prison. The original detention of Ahmed Batebi in July 1999 for his participation in student demonstrations was the subject of a letter of allegation by the Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran on 6 October 2000. According to the information received, on 8 November 2003, Ahmed Batebi was reported missing after he allegedly took part in an *iftar* at Tehran University. Ahmed Batebi was reportedly on leave from prison for medical reasons since 20 October 2003 and his leave was reportedly due to expire on 10 November 2003. On 17 November 2003, the father of Ahmed Batebi was allegedly interrogated by the Chief Prosecutor of Tehran, when he visited his office to enquire about his son's whereabouts. He was allegedly accused of kidnapping his own son and threatened with arrest. The Chief Prosecutor then allegedly informed him that Ahmed Batebi had been sent back to prison. The place of his detention has reportedly not been disclosed and the reasons for his arrest are allegedly unknown. His family reportedly received a telephone call from him, during which he allegedly sounded very feeble. Concern has been expressed that Ahmed Batebi may have been targeted for meeting with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, who had visited Iran on a fact-finding mission from 4 to 10 November 2003.

276. On 5 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 independence of judges and lawyers, sent a letter of allegation regarding the situation of Mr. **Nasser Zarafchan**, a lawyer of the Bar of Tehran. According to the information received, on 18 March 2002, Mr. Zarafchan had reportedly been sentenced to three years in jail by the Military Tribunal of Tehran for "possessing weapons and alcohol" and to two years in prison for his statements to the press regarding the lawsuit of the alleged murderers of intellectuals, which ended in January 2002. Following an appeal, this decision was reportedly upheld by the Military Court of Tehran on 15 July 2002, and on 25 November 2003, Nasser Zarafchan's appeal to the Supreme Court was dismissed, thereby confirming his five years' imprisonment sentence. It has been alleged that the case against him was fabricated by the police and that his sentence reportedly aimed at sanctioning his activity as a lawyer for the families of the intellectuals murdered by intelligence services agents in 1998. Reports indicate that Mr. Zarafchan is being detained at Evin Prison, and that he was not allowed to meet his counsel, Mrs. Chirin Ebadi, during the process. Concerns were expressed that Nasser Zarafchan may have been targeted in retaliation for his work as a lawyer and a human rights defender. Concerns are heightened by the fact that the Special Rapporteur on the right to freedom of opinion and expression was not able to meet with him during his visit in Iran in November 2003.

However, the Special Rapporteur notes that on this occasion, the authorities made a pledge to review Mr. Zarafchan's case.

Observations

277. The Special Representative regrets that at the time of the finalization of her report no reply had been received from the Government. She calls on the Government to ensure that all rights enshrined in the Declaration on human rights defenders are respected.

Israel

Communications sent

278. On 30 January 2003, the Special Representative, in conjunction 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 Chairman-Rapporteur of the Working Group on Arbitrary Detention, transmitted an urgent appeal regarding '**Abla Sa'adat**, a human rights defender, and **Iman Abu Farah** and **Fatma Zayed**, both fourth-year students at the Religious Studies College of al-Quds University in Abu Dis, Jerusalem. According to the information received, on 20 January 2003, Iman Abu Farah and Fatma Zayed were reportedly arrested from their apartment in Um al-Sharayit and taken to Beit El. On 21 January 2003, '**Abla Sa'adat** was reportedly arrested at the border crossing into Jordan, while she was on her way to Brazil for the World Social Forum as a delegate representing the Palestinian human rights organization *Addameer*. It is believed that she was also taken to the Beit El Military Detention Centre (near Ramallah, West Bank), and placed in an isolation cell without being questioned. All her personal belongings were allegedly taken from her. On the evening of 22 January 2003, '**Abla Sa'adat**, **Iman Abu Farah** and **Fatma Zayed** were reportedly all served with four-month administrative detention orders. It was reported that they are held in extremely harsh conditions. In protest at their detention conditions, the three detainees have reportedly been on hunger strike since 23 January 2003, and their health is reportedly deteriorating. Iman Abu Farah has reportedly subsequently been transferred to the Moskobiyye Interrogation Centre. According to the information received, in sworn affidavits, **Abla Sa'adat** and **Iman Abu Farah** described the harsh conditions of their arrest, and reaffirmed that they would not end their hunger strike until they were transferred to more adequate facilities for female detainees.

279. On 19 February 2003, the Special Representative transmitted an urgent appeal concerning **Dr. Azmi Shuaibi**, a Commissioner with the Palestinian Independent Commission for Citizens' Rights (PICCR), and **Husein Sholi**, the coordinator for complaints at PICCR, who have reportedly been refused permission to leave to attend human rights events abroad. Dr. Azmi Shuaibi has been invited to attend the eleventh United Nations Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asia and Pacific Region, to be held in Islamabad at the end of February 2003. According to the information received, Dr. Azmi Shuaibi was informed by the relevant Israeli authorities that, because he is a Palestinian Parliamentarian, he would require a special permit to leave, but that given the limited time available it would be very difficult to obtain such a permit. Husein Sholi was reportedly invited in October 2002 to attend a human rights training course in Sweden from 17 February to 21

March 2003. He was reportedly provided with the relevant visa by the Swedish consulate in Jerusalem, but the Israeli Ministry of Defence allegedly informed him that he would not be allowed to travel for security reasons.

280. On 28 February 2003, the Special Representative, in conjunction with the Special Rapporteur on the question of torture and the Special Rapporteur on the independence of judges and lawyers, transmitted an urgent appeal concerning **Daoud Dirawi**, who was reportedly detained on the evening of 21 February 2003 in Jerusalem while on his way to purchase medicine from a pharmacy for his daughter who was ill. Reports indicate that he was stopped by Israeli soldiers, who asked to see his identification. He reportedly had left his identity card with his wife and was only able to show an official document indicating that he had moved to Jerusalem so as to be with his wife, who is a resident of the city. His wife, Fatmi Dirawi, reportedly brought the identification card and was then required by the soldiers to wait outside with her husband for two hours. Daoud Dirawi was then reportedly taken by Israeli soldiers to Qeshle Police Station in Jerusalem. Fatmi Dirawi was reportedly told by officers at the police station that her husband would be held for 24 hours and then brought before a judge. The following morning, she was reportedly told that her husband had been taken away by personnel from Shin Bet (the Israeli Secret Intelligence Service), that he would be detained for interrogation purposes for 12 days, that his place of detention would not be disclosed and that he would not be able to meet with a lawyer during this period. According to the information received, Daoud Dirawi had already been arrested on 10 September 2001 and allegedly tortured while being detained in Ashkelan in poor conditions of detention and was the subject of an urgent appeal on 17 September 2001, under the mandate of the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, to which the Government of Israel responded on 21 June 2002.

281. On 3 June 2003, the Special Representative transmitted an urgent appeal concerning a statement made on 21 May 2003 by the Israeli Minister for Foreign Affairs to the Knesset's Foreign Affairs and Defence Committee, accusing "most human rights offices in the West Bank and Gaza Strip of providing shelter to terrorists". The Special Representative pointed out that while her information indicated that those accusations were false, general statements against human rights organizations and actors, such as the one alleged, were contrary to the spirit of the Declaration on human rights defenders. In addition, she expressed concern that in the current context of tension in the region such public accusation by a government official might increase the vulnerability of human rights defenders to threats to their work and personal safety.

282. On 16 September 2003, the Special Representative transmitted a letter of allegation concerning the alleged killing of **Rachel Corrie**, a volunteer from the United States of America with the International Solidarity Movement (ISM). On 16 March 2003, Rachel Corrie was reportedly opposing the bulldozing of a Palestinian home in the Rafah refugee camp in Gaza, when an Israeli army bulldozer allegedly ran her over, reportedly causing her death. It is reported that Rachel Corrie and the seven other ISM activists working with her in the Rafah area had clearly identified themselves as unarmed international peace activists. The driver of the bulldozer was reportedly aware of her presence, as she was reportedly carrying a loudspeaker and sitting in the path of the bulldozer as it advanced towards her. When the bulldozer allegedly refused to stop or turn aside she reportedly climbed up onto the mound of dirt and rubble being gathered in front of it wearing a fluorescent jacket to look directly at the driver. The bulldozer allegedly continued

to advance so that she was pulled under the pile of dirt and rubble. It is alleged that after she had disappeared from view, the driver kept advancing until the bulldozer was completely on top of her, without lifting the bulldozer blade.

283. On 2 December 2003, the Special Representative, in conjunction with the Special Rapporteur on the question of torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention, transmitted an urgent appeal regarding **Abed Rahman al-Ahmar**, a field researcher with the Palestinian Human Rights Monitoring Group (PHRMG). According to the information received, Abed Rahman al-Ahmar, who has been imprisoned by Israeli authorities several times in the past, was reportedly arrested again on 22 November 2002, at his home in the Daheishe Refugee Camp. He was reportedly detained at the Etzion Detention Centre. Concerns have been expressed that Abed Rahman al-Ahmar's recent detention and imprisonment may be a response to his human rights activities. It was reported that on 22 November at 4 a.m., members of the Israeli Security Forces entered his house and proceeded to shoot in the air and ordered everyone to leave the house before searching the al-Ahmar's home for several hours.

Approximately 30 persons, including women and children, were reportedly kept outside in the cold at gunpoint for about three hours. It was reported that the Security Forces stated that they were looking for a relative of Mr. al-Ahmar, but as they did not find him, they arrested Mr. al-Ahmar instead, explaining that they wanted to question him for a short time. Mr. al-Ahmar was then reportedly taken to the Etzion Detention Centre, where his detention was set to end on 3 December 2002. According to the information received, Mr. al-Ahmar was not questioned so far on anything other than his marriage to Attorney Allegra Pacheco, who currently works for the United Nations Relief and Works Agency for Palestine Refugees (UNWRA). Furthermore, he reportedly was not receiving proper medical care or the medication he had to take on a regular basis despite reports that he was suffering from severe back and stomach aches. His fragile health reportedly results from the alleged torture to which he was subjected by the General Security Services (GSS) while he was in detention during the first Intifada. According to the information received, Attorney Pacheco has visited Mr. al-Ahmar at the Etzion Detention Centre and Attorney Lea Tsemel was appointed to represent Mr. al-Ahmar and filed a request on 27 November 2002 to the Beit El Military Court demanding that Mr. al-Ahmar be released on bail.

284. On 8 December 2003, the Special Representative sent a letter of allegation regarding the alleged shooting of **Tom Hurndall**, a volunteer with ISM. According to the information received, on 11 April 2003, Tom Hurndall was reportedly preparing for an ISM "action", involving the positioning of a tent in order to protect a house in the Yibnah District of the City of Rafah, with a group of 10 ISM volunteers. He was allegedly shot on Kir Street, while he was reportedly carrying children away from gunfire allegedly emanating from an Israeli Defence Forces (IDF) watchtower. In addition, according to the information received, Tom Hurndall was reportedly taken by taxi to the local hospital and then to a hospital in Gaza, and finally by helicopter to the Soroka Medical Centre in Beer Shiva, where he reportedly received a CAT scan. The scans from the hospital in Beer Shiva have reportedly been repeatedly promised to his family, but have allegedly not been given. Concern has been expressed that Tom Hurndall may have been targeted as a result of his work with ISM. Concerns are heightened by the fact that, at the time of the shooting, Tom Hurndall was reportedly wearing orange clothes with fluorescent markings to indicate his status as an international peace volunteer which were allegedly fully visible from the IDF watchtower, and that the ISM banner had reportedly been hung directly in front of the watchtower.

Communications received

285. By letter of 12 March 2003, the Government responded to the communication sent by the Special Representative on 19 February 2003 regarding the case of **Hussein Sholi**. The Government stated that following the clarification of certain security issues, Hussein Sholi had been given authorization to travel and would be leaving for Sweden on 12 March 2003 to attend the human rights training course.

286. By letter of 16 June 2003, the Government responded to the communications sent by the Special Representative on 2 December 2002 regarding the arrest of **Abed Rahman Al-Ahmar**. The Government informed the Special Representative that the person concerned had been arrested in relation to his activities with a terrorist organization, the Popular Front for the Liberation of Palestine, for which he held previous convictions for involvement in terrorist attacks against Israelis. The Government stated that following an appeal filed on his behalf by the Military Court of Appeals, it was found that he posed an imminent and significant danger to security and that his claims to be a human rights activist were inaccurate. It further stated that the Ofer detention facility where he was being held fully complied with the applicable standards of international humanitarian law and had permanent medical staff whom he was entitled to approach with regard to his medical needs. It also stated that he was entitled to have recourse to Israel's judicial system, including the Israeli Supreme Court sitting as High Court of Justice, with regard to any aspect of his detention.

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

287. By letter dated 27 June 2003, the Government responded to the communication sent by the Special Representative together with the Special Rapporteur on the question of torture on 13 September 2002 regarding the situation of **Dr. Mustafa Barghouti**. The Government stated that the Ministry of Justice Department of Investigation of Police Misconduct had carried out an investigation, which concluded that there was insufficient evidence to justify criminal proceedings against the police officers in question regarding the allegations of Dr. Mustafa Barghouti and that this was due, inter alia, to the lack of cooperation by Dr. Barghouti and his attorney. The Government further stated that Dr. Barghouti had been entitled to submit an appeal to the State Attorney within 30 days of receipt of the letter informing him of the above-mentioned decision and that no such appeal had been submitted.

Observations

288. The Special Representative thanks the Government for its responses and in particular for its rapid response to the situation of **Husein Sholi**. She welcomes the fact that through the Israeli Foreign Ministry and the Permanent Mission of Israel to the United Nations Office at Geneva, which entered into direct contact with its support staff at OHCHR, Husein Sholi was able to travel to Sweden. She regrets that time did not allow Dr. Azmi Shuaibi to travel to Islamabad to attend the eleventh United Nations Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asia and Pacific Region. The Special Representative regrets the absence of responses to her other communications. She remains deeply concerned by the many violations allegedly committed against human rights defenders by Israeli authorities over

the past year, including notably the reported killings of peace activists in the occupied territories. She calls on the Government to ensure that all rights enshrined in the Declaration on human rights defenders are respected.

Jordan

Communications sent

289. On 14 January 2003, 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 reported arrest of Hisham Bustani, a human rights activist and a member of the outlawed Union of Professional Associations, who denounced the detention conditions at the Jweidah Prison, near Amman, in an article published in the latest issue of the magazine *Al-Adab* published in Lebanon. According to information received, Mr. Bustani was arrested on 24 December 2002 and is reportedly being held at Jweidah Prison. His article, entitled "Mechanism of oppression: the Jweidah Prison case", was based on his five-day imprisonment at Jweidah a few months earlier. It is further reported that the November-December edition of the magazine has been banned in Jordan.

Observations

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

Kazakhstan

Communications sent

291. On 5 December 2003, the Special Representative sent an urgent action regarding the alleged sentencing of **Sergey Duvanov**, a journalist and editor of the Bulletin "Human Rights in Kazakhstan and in the World". According to the information received, on 28 January 2003, Sergey Duvanov was allegedly sentenced by the Karasai District Court to three and a half years of detention in a general regime colony for rape under article 120 of the Criminal Code. Reports by international observers allege that there was insufficient evidence of his guilt to convict him and serious violations of criminal procedure during the hearing. On 11 March 2003, the Criminal Collegium of the Almaty Oblast Court reportedly upheld the verdict, and allegedly considered his guilt to be proved for raping a minor under article 120(2) of the Criminal Code. In June and November 2003, Sergey Duvanov's lawyers reportedly received letters from the Almaty Oblast Court Chief Justice and the Supreme Court indicating that there were no reasons for legal investigation of the case in supervisory procedure, and alleging that all legal remedies have been exhausted. Concern has been expressed that Sergey Duvanov may be in detention after an unfair trial as a result of his journalistic work on behalf of human rights. Due to the reported lack of sufficient evidence against Sergey Duvanov, it is feared that the trial was politically motivated.

Observations

292. The Special Representative is grateful for the detailed response received on this case from the Government on 22 December 2003. Unfortunately, the English translation was not available in time to be examined and included in this report, and will thus be reported next year.

Kyrgyzstan

Communications sent

293. On 30 January 2003, 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 appeal concerning the reported harassment of NGO activists, which appears to be linked to the release of an appeal signed by 22 NGOs on 15 January 2003 calling for the referendum on the Constitution which is due to take place on 2 February to be rescheduled, and to the media attention this has generated. It is reported that several of these activists have been summoned by the State authorities and secret service representatives to sign letters denying their position on the referendum. It is reported in particular that on 27 January, an officer of the criminal investigation department of Pervomai police unit visited the neighbours of **Aziza Abdrasulova**, a Coalition member in Bishkek, and questioned them about her family's lifestyle and social activities. In the absence of her parents, Aziza Abdrasulova's 12-year-old daughter was interrogated about where she and her younger brother went to school.

294. On 8 May 2003, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, transmitted an urgent appeal regarding the alleged harassment of the Kyrgyz Committee for Human Rights (KCHR) and its President **Ramazan Dyryldaev**. According to the information received, in March 2003 Mr. Dyryldaev, who had left the country three months earlier after having allegedly received information that there might be an attempt to kill him, reportedly returned to Kyrgyzstan where he stayed with his brother. On 26 March 2003, former KCHR employees, accompanied by unknown men in uniforms, allegedly entered the KCHR office in an attempt to steal some computers and data. From 29 March until 10 April 2003, after Mr. Dyryldaev had left his brother's home where he had been staying, two men were allegedly noticed watching the house, and on 21 April 2003, Officers from the State Department on Organized Economic Crime reportedly went to the home of KCHR staff member, Vladimir Tihonov, to enquire about Ramazan Dyryldaev's whereabouts. On the same day, Ramazan Dyryldaev was reportedly accused by former employees of financial misdoings.

Communications received

295. By letter dated 16 April the Government responded to the communication sent on 30 January 2003 regarding the reported harassment of NGOs. The Government informed the Special Representative that an inquiry had been carried out by the Office of the Procurator-General which concluded that no such harassment had taken place and further that no complaints had been lodged with any judicial bodies by any of the alleged victims. As regards the visit of a militia officer to the house of **Aziza Abdrasulova**, the Government confirmed that an officer had visited her house as well as other houses in the vicinity to gather information, in accordance with

routine crime detection measures provided for by law about a theft committed in the area. The Government also informed the Special Representative that the new version of the Constitution that came into force following a nationwide referendum on 2 February was devoted to the strengthening of democracy, adherence to human rights and freedoms and greater effectiveness in the operation of government bodies.

Observations

296. The Special Representative thanks the Government for its response in the Aziza Abdrasulova case but regrets the absence of reply to her other communications.

Lebanon

Communications sent

297. On 13 August 2003, the Special Representative transmitted an urgent appeal concerning internationally recognized lawyer and human rights activist, **Dr. Mugraby**. According to the information received, on 7 August 2003, Dr. Mugraby was instructed by two policemen to report to the Public Prosecutor. On 8 August 2003, after reportedly presenting himself at the Prosecutor's office, he was allegedly questioned for approximately four hours on charges of "impersonating a lawyer", and was allegedly taken into custody and detained in a prison inside the Ministry of Justice or the Palace of Justice. Prior to his alleged arrest, the Beirut Bar Association reportedly repeatedly attempted to prevent Dr. Mugraby from practising as a lawyer in Lebanon. On 4 April 2002 and on 17 January 2003, two of the Bar's disciplinary committees reportedly ruled that Mugraby should be barred from practising law. Dr. Mugraby reportedly appealed both decisions, but the appeals were reportedly never heard. Decisions of the Bar's disciplinary committees are reportedly not final until the appeals process is completed. It is further reported that following the decisions of the two disciplinary committees, Dr. Mugraby reportedly continued to practise as a lawyer, paid his annual Bar Association dues, which were reportedly accepted, and he continued to register his power of attorney at the Bar, which was also reportedly accepted. Concern has been expressed that the arrest and the attempts to disbar Dr. Mugraby may be linked to his activity as a human rights defender. Dr. Mugraby is a founding member of MIRSAD (Multi Initiative on Rights Search, Assist, and Defend), an NGO working on combating corruption in the judiciary and creating a media human rights network. Dr. Mugraby has also reportedly provided legal advice to families of disappeared persons in Lebanon.

298. On 16 September 2003, the Special Representative transmitted a letter of allegation on the reported interrogation and detention of **Samira Trad**, a member of the Frontier Centre, an organization working on the rights of refugees in Lebanon. On 3 September 2003, upon her return to Beirut from a working trip to several European countries, Samira Trad reportedly received a request to meet with Lebanese security officials on 10 September 2003. On that day, she was allegedly interrogated, accused of tarnishing the reputation of the State of Lebanon and founding an illegal organization, and detained until the day after. It is alleged that although no formal charges were filed against her she was told not to leave the country. Samira Trad had reportedly also been called in for questioning six months before and allegedly been told that she

should stop her efforts to provide legal assistance and advice to non-Palestinian refugees. Concerns have been expressed that her arrest may be related to her work on refugee rights in Lebanon.

299. Le 24 septembre 2003, la Représentante spéciale a envoyé un appel urgent sur la situation de **Mohamad Fakihr et Jihad Abou Nader**, avocats et représentants de **M^e Mugraby**, au sujet duquel la Représentante spéciale avait déjà envoyé un appel urgent le 13 août 2003. Le 18 août 2003, le président du barreau de Beyrouth aurait demandé la mise en œuvre de poursuites disciplinaires contre Mohamad Fakihr et Jihad Abou Nader pour avoir représenté leur client, M^e Mugraby, sans avoir auparavant obtenu l'autorisation du président du Barreau. Le 20 août 2003, les deux avocats auraient été convoqués par le barreau pour être interrogés dans le cadre de la procédure disciplinaire engagée à leur encontre. L'audience du comité de discipline devant statuer sur leurs cas aurait été fixée au 30 septembre 2003. Des craintes ont été exprimées quant au fait que ces poursuites disciplinaires ne représentent une forme de punition et d'intimidation à l'encontre des deux avocats, en raison de leur activité de conseil auprès de M^e Mugraby, et qu'elles ne visent à priver ce dernier de représentation légale.

Communications received

300. By letter dated 14 November 2003, the Government responded to the communication sent on 16 September 2003 regarding the situation of **Samira Trad**. The Government informed the Special Representative that on 14 December 2002 Samira Trad had been informed that, as she had failed to comply with Lebanon's procedural rules which regulate the activities and methods of representation of foreign associations in Lebanese territory, her activities were illegal. The Government stated that she had signed a notice undertaking to refrain from carrying out any further activities until she had received the requisite permit but had resumed her former activities shortly thereafter. The Government further indicated that she had severely criticized the Government of Lebanon for effecting the voluntary repatriation of 600 Iraqis to northern Iraq, characterizing the operation as a violation of refugee rights. The Government added that she had carried out other propaganda activities in her capacity as a member of the Frontier Centre, an organization devoted to safeguarding the rights of refugees in Lebanon and which, upon closer inspection, turned out to be registered as an unlicensed commercial enterprise. On 11 September 2003, she was again summoned to the General Directorate of Public Security. An official report was written on her activities. On the basis of this report the Public Prosecutor of the Appellate Court in Mount Lebanon decided that she should be detained and transferred to his Office. On 12 September she was released, placed under house arrest and charged with tarnishing the reputation of the Lebanese authorities. The Government also stated that there had not been any administrative or court order prohibiting Samira Trad from leaving Lebanese territory and that the authorities had no objection to her resuming her activities, provided that she abided by the law.

Observations

301. The Special Representative thanks the Government for its response but regrets the absence of replies to the remaining cases.

Liberia

Communications sent

302. On 24 December 2002, the Special Representative sent an urgent action regarding **Aloysius Toe**, Executive Director of the Movement for the Defence of Human Rights (MODHAR), and leading member of the National Human Rights Centre, which brings together several human rights organizations. Aloysius Toe is also Secretary- General of the Liberia Coalition of Human Rights Defenders, a coalition of 19 human rights organizations. According to the information received, on 4 November 2002 Aloysius Toe was allegedly arrested, brought before a magistrate's court and charged with treason. It was further alleged that there was no basis to the charges against him and that he had been specifically targeted because of his persistent and legitimate work in the defence of human rights. It was reported that at the time he was imprisoned in the Central Prison in Monrovia. It was reported that Aloysius Toe was arrested after he emerged from almost a week in hiding. On 29 October 2002, in the early hours of the morning, his home was reportedly raided by police. In his absence, his wife, Vivian Toe, was allegedly arrested and released later that day. The information provided indicates that the authorities allegedly announced that Aloysius Toe was wanted in connection with documents found at his home which, they alleged, linked him to the armed opposition Liberians United for Reconciliation and Democracy (LURD). It is further reported that the alleged document is a public statement by LURD entitled "LURD's Blueprint for Liberia" which has been widely diffused, including on the Internet. It is reported that no other evidence of the offence of treason has been cited.

303. On 29 April 2003, 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 the independence of judges and lawyers, transmitted an urgent appeal concerning **Sheikh K.M. Sackor**, the Executive Director of the human rights NGO Humanist Watch, who was reportedly arrested on 25 July 2002 in Monrovia. She had sent an urgent appeal on his case on 30 September 2002, along with the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention. At the time of sending the urgent appeal of 29 April, no response had been received from the Government. According to new information received, on 23 October 2002, the Minister of National Defence announced that a military tribunal had concluded that Sheikh K.M. Sackor was a prisoner of war. The consideration of his case was reportedly held in camera, in the absence of the accused, with no evidence produced against him or tested before a competent, independent and impartial court. It was further alleged that despite the announcement by the Government on 28 October 2002 that he would be released under certain conditions, Sheikh K.M. Sackor was reportedly still held in incommunicado detention at an unknown place.

Observations

304. The Special Representative regrets that at the time of the finalization of her report no response had been received from the Government.

Malaysia

Communications sent

305. On 15 January 2003, 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 appeal concerning **Irene Fernandez**, director of the women's NGO Tenaganita. According to information received, Ms. Fernandez is currently facing a trial which has been going on since 1996, when she was charged under Section 8A(2) of the Printing Presses and Publications Act (1984) (PPPA) with "maliciously publishing false news." In accordance with Malaysian law, a conviction under this provision can lead to up to three years' imprisonment and/or a fine of up to RM 20,000. It is believed that the charges against Ms. Fernandez were brought following the release by Tenaganita of a report entitled "Abuses, Torture and Dehumanized Treatment of Migrant Workers at Detention Camps" on alleged human rights violations. According to information received, this report was compiled from over 300 interviews of migrant workers, mainly from Bangladesh, Indonesia and the Philippines, after their release from detention camps in Malaysia in 1994-1995. It gave details of alleged patterns of human rights violations within the camps, including beatings, sexual abuse, malnutrition, dehydration and denial of access to medical treatment.

306. On 14 October 2003, the Special Rapporteur jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders sent a follow-up urgent appeal regarding the case of **Irene Fernandez**. According to new information, on 9 October 2003, Irene Fernandez's lawyers reportedly received a letter from the magistrate, requesting them to send all written submissions by 11 October 2003 because the date of the trial had been brought forward to 14 October 2003. A deadline for the defence submissions was also fixed for 10 October 2003. The senior counsel for the trial, Mr. M. Puravalen, was not in the country and would have only been on 20 October 2003. Thus, it would have been impossible for him to send in the written submissions or to be present in court on the date of the trial.

307. On 6 November 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 violence against women, sent a further urgent appeal regarding the situation of **Irene Fernandez**. According to the information received, on 16 October 2003, the Kuala Lumpur magistrate's court reportedly convicted Irene Fernandez of "maliciously publishing false news" in connection with a 1995 report that documented beatings, sexual abuse and inadequate food in detention camps for migrant workers. Her one-year jail sentence has reportedly been stayed pending appeal. On November 4, the magistrate's court reportedly rejected the application by Irene Fernandez for the issuance of a passport despite reportedly conceding that she was not likely to flee. It is reported that the denial came at the request of the prosecutor, who had reportedly urged the court to deny her request on the grounds that she would likely "tarnish the image of the country" if allowed to speak about Malaysia's human rights situation at international conferences she is scheduled to attend that month. Irene Fernandez has been invited to attend two conferences on human rights issues in the United States and Canada in

the weeks to come, including a conference on human rights defenders to be held in Atlanta on the 11 and 12 November 2003. Irene Fernandez is reportedly appealing the decision.

308. On 4 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 a letter of allegation regarding the case of **Ahmad Kamal bin Abdul Hamid, Nik Noor Hafizi bin Nik Ibrahim, Dzulkifli bin Idris, Khairul Amar bin Mahmud, Wan Mohamad Sanusi bin Wan Mohd Noor, Rafzan bin Ramli and Hermaan Saruddin**. According to the information received, they were arrested during a peaceful demonstration on 8 June 2001 in front of the National Mosque in Kuala Lumpur in protest against the Internal Security Act and the limitations that they consider the Act imposes upon respect for human rights. The students were reportedly charged on 19 July 2001 with illegal assembly and subsequently suspended from their university education, in application of the Universities and University Colleges Act (UUCA). According to available information, the students' trial continued in July 2003. The Special Representative is concerned that the students may have been arrested and charged for exercising their right to defend human rights, as defined in the Declaration.

Communications received

309. By letter dated 11 February 2004, the Government responded to the letter of allegation sent on 4 December 2003. The Government informed the Special Representative that the students had been arrested on 8 June 2001 for participating in an illegal assembly and were charged in court on 19 July 2001 with the same offence. The Government stated that as their case was currently being heard, it felt it could not comment at this time and urged the Special Representative to allow due process of the law to be respected.

310. By letter of 17 December 2003 the Government responded to the urgent appeals sent by the Special Representative together with the Special Rapporteur on the promotion of and protection of the right to freedom of opinion and expression and the Special Rapporteur on the human rights of migrants on 15 January 2003 and 14 October 2003 regarding the case of **Irene Fernandez**. The Government confirmed that Irene Fernandez had been arrested on 18 March 1996 on the charge of publishing false news on the condition of migrant workers at the Semenyih detention camp. The Government stated that the case had been heard by magistrate Juliana Mohamed at the Magistrate Court of Kuala Lumpur and that, according to the notes of evidence dated 13 June 2003, the Court had directed the defence to file their written statement before 30 June 2003 but that they had failed to do so. On 7 October 2003, magistrate Juliana Mohamed announced that she would be resigning from her post and that, as she had been the presiding magistrate in the case, requested that the date of trial be brought forward to 11 October 2003. For this reason, Irene Fernandez had been given permission to make an oral submission from the dock which she concluded on 15 October 2003. The Magistrate found that the prosecution had been able to prove beyond any reasonable doubt the falseness of the information contained in the memorandum as well as the malicious intent of Irene Fernandez' actions in making it public. The court had also conducted a visit to the Semenyih detention camp and concluded that the information contained in the memorandum was false. While affirming that the right to freedom of opinion and expression is guaranteed in Malaysia under article 10 of the Federal Constitution, the Government stated that this did not imply that the right could be abused nor exercised with due regard to the implications it may bring. It was in this respect that the Court had found Irene

Fernandez guilty of publishing a memorandum with false information under Section 8A (2) of the Printing Presses and Publications Act 1984. The Government stated that she had been tried in an open court in a fair and impartial manner and that avenues to appeal were still available to her and that, for this reason, further comments on the case should be reserved until all avenues of redress and appeal have been exhausted. Finally, the Government stated that gender had never been an issue in the case.

Observations

311. The Special Representative thanks the Government for its response on the case transmitted on 4 December 2003. While the Special Representative recognizes the need to allow due process to function, she expresses concern about allegations of limitation of the right to peaceful protest.

Mauritania

Communications envoyées

312. Le 16 juillet 2003, 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 l'indépendance des juges et des avocats, a envoyé un appel urgent sur la suspension présumée pour trois ans du bâtonnier **Mahfoudh Ould Bettah** par le conseil de l'ordre de Mauritanie, le 7 juillet 2003. Le 27 juin 2002 à Nouakchott, M^e Bettah, bâtonnier depuis plus de 12 ans, aurait été réélu bâtonnier de l'ordre national des avocats de Mauritanie à la majorité absolue. Ce scrutin aurait été invalidé, en violation du Code de procédure pénal mauritanien, et un second tour aurait été organisé par les autorités. Des pressions auraient été exercées sur les avocats, et les partisans de M^e Bettah auraient préféré ne pas prendre part au vote, contestant les irrégularités de la procédure. Le 16 décembre 2002, un bâtonnier proche du pouvoir aurait été officiellement reconnu par le parquet général. Le 24 avril 2003, le conseil de l'ordre aurait cité M^e Bettah à comparaître, aux motifs qu'il se considérerait bâtonnier en violation des résultats des élections du second tour de juin 2002. Cependant, l'audience du conseil de discipline prévue pour le 12 mai 2003 pour la radiation de M^e Bettah ne se serait pas tenue et depuis, il n'aurait reçu aucune nouvelle citation. Sa suspension serait intervenue sans convocation ni comparution, le 7 juillet 2003. Des craintes ont été exprimées que cette suspension, qui intervient peu de temps avant l'ouverture d'une série de procès à l'encontre d'opposants politiques, ne constitue une tentative de restreindre l'indépendance du barreau.

313. Le 5 décembre 2003, 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 les arrestations et condamnations supposées de **Boubacar Ould Messaoud**, Président de SOS-Esclaves, une organisation qui travaille contre l'esclavage et la torture, **Brahim Ould Ebetty**, membre de SOS-Esclaves, **Cheikh Saad Bouh Kamara**, président de l'Association mauritanienne des droits de l'homme (AMDH), une organisation des droits humains affiliée à la FIDH, et de **Fatimata M'Baye**, vice-présidente de l'AMDH, et **Abdel Nasser Ould Ethmane**, secrétaire aux relations extérieures de SOS-Esclaves. Selon les informations reçues, le 17 janvier 1998, Boubacar Ould Messaoud, Brahim Ould Ebetty et

Cheikh Saad Bouh Kamara auraient été arrêtés à leurs domiciles à Nouakchott et mis en examen sur la base d'une loi de 1973 en relation avec leurs activités au sein d'organisations non reconnues en Mauritanie en dépit de leur affiliation à la Commission africaine des droits de l'homme et des peuples. Le même jour, Abdel Nasser Ould Ethmane aurait été mis en examen par contumace sur la base de la même loi. Boubacar Ould Messaoud, Brahim Ould Ebetty et Cheikh Saad Bouh Kamara auraient été détenus pendant quatre jours sans contact avec l'extérieur. Le 5 février 1998, Fatimata M'Baye, leur avocate, aurait été arrêtée pendant une manifestation en faveur de leur libération. Le 12 février 1998, Boubacar Ould Messaoud, Brahim Ould Ebetty et Cheikh Saad Bouh Kamara, Fatimata M'Baye et Abdel Nasser Ould Ethmane auraient été condamnés à treize mois en prison, dont Abdel Nasser Ould Ethmane par contumace. Des craintes ont été exprimées que ces personnes seraient visées à cause de leur travail en faveur des droits humains. En particulier, des craintes ont été exprimées que leurs arrestations soient liées à un sujet d'actualité de la télévision du 15 janvier 1998 sur l'esclavage en Mauritanie, dans lequel Boubacar Ould Messaoud aurait été interviewé.

Observations

314. La Représentante spéciale regrette qu'au moment de la finalisation de son rapport aucune réponse à ses communications n'ait été reçue.

Mexico

Comunicaciones enviadas

315. El 23 de enero de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas en relación con **Ledesma Arronte**, director y fundador del Centro de Análisis Político de Investigaciones Sociales y Económicas (CAPISE), una organización que se dedica a la investigación y denuncia de casos de violaciones de los derechos humanos relacionados con la presunta actuación de las Fuerzas Armadas y grupos paramilitares contra las comunidades indígenas del Estado de Chiapas. De acuerdo con la información recibida, el 1.º de enero de 2003 Ledesma Arronte habría recibido en su casa una llamada telefónica en la que habría sido amenazado de muerte. Una voz masculina le habría dicho: "te vamos a matar" e inmediatamente cortó la línea. Además, se informó de que el 3 de enero por la mañana, al llegar a las oficinas de CAPISE, Ledesma Arronte habría encontrado la puerta abierta, a pesar de que todavía ningún colaborador de la organización había llegado. No habría sido robado objeto alguno, por lo que los miembros de la organización sospecharon que el objetivo era intimidarlos. Una denuncia penal habría sido presentada ante el ministerio público de la zona Altos de la Procuraduría General de Justicia del Estado de Chiapas. Esta no habría sido la primera vez que Ledesma Arronte habría recibido amenazas: el 18 de noviembre de 2002, al regresar a su domicilio, se habría percatado de un fuerte olor a gas y habría comprobado que dos llaves de la estufa habían sido abiertas mientras que la ventana de la cocina estaba cerrada. Se alega que estas acciones reflejan la situación general en la que se encontrarían los defensores de derechos humanos en Chiapas.

316. El 24 de enero de 2003, la Representante Especial envió un llamamiento urgente en relación con la situación de inseguridad en la que se encuentra Arturo López Magaña, colaborador de la Liga Mexicana para la Defensa de los Derechos Humanos (LIMEDH) en Playa del Carmen, Estado de Quintana Roo. Según la información recibida, el 20 de enero de 2003, el Sr. López Magaña habría sido interceptado a dos cuadras de su casa por agentes policiales de Playa del Carmen, quienes sin presentarle ninguna orden judicial, le habrían despojado de su automóvil. El Sr. López Magaña habría denunciado estos hechos ante el ministerio público de justicia del Estado de Quintana Roo por los delitos de robo y abuso de autoridad. Un día después, el Sr. López Magaña habría recibido un recado con un mensaje de Henry Boldo Osorio, Director de Policía y Tránsito Municipal, pidiéndole que se calmara ya que había una consigna de perjudicarlo. También se habrían señalado patrullajes de vehículos policiales en torno al domicilio del Sr. López Magaña. Estas amenazas podrían estar relacionadas con la labor del Sr. López Magaña para la defensa del medio ambiente y de los derechos y libertades fundamentales, en particular por su acompañamiento y apoyo a las demandas contra la construcción de un muelle en Playa del Carmen. Se informa que durante el mes de diciembre de 2002, el Sr. López Magaña ya habría recibido amenazas por parte de agentes de la Policía Judicial del Estado supuestamente por su actuación de defensa de los habitantes de la Colonia Colosio en el proceso de regularización de sus terrenos y para evitar que fueran desalojados.

317. El 6 de marzo de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la cuestión de la tortura y el Relator Especial sobre la independencia de magistrados y abogados en relación con la situación de **Samuel Alfonso Castellanos y Beatriz Casas Arellanas**, ambos abogados y respectivamente empleado y voluntaria de la organización Acción de los Cristianos para la Abolición de la Tortura (ACAT)-Oaxaca, **Carlos Cruz Mozo e Inocencio López Michel**, miembros de la Organización Indígena de Derechos Humanos de Oaxaca (OIDHO). Se alega que una carta conteniendo amenazas de muerte contra estas personas habría sido encontrada el 1.º de marzo de 2003 en la oficina de ACAT-Oaxaca. Este mismo día tres desconocidos armados habrían seguido a Samuel Castellanos tras esperarle en la puerta de las oficinas de ACAT-Oaxaca. Estas amenazas e intimidaciones habrían sido el objeto de una denuncia ante la Procuraduría General de Justicia del Estado (PGJE) y la Comisión Estatal de Derechos Humanos (CEDH). La carta de amenazas supuestamente presionaba a los trabajadores de ACAT para que dejaran de trabajar en el caso de 16 personas que habrían sido torturadas y acusadas de la matanza que tuvo lugar en Agua Fría a inicios de 2002. Mientras seis de ellas habrían obtenido la libertad condicional, las otras todavía permanecerían bajo custodia. En octubre de 2002, Samuel Alfonso Castellanos y Beatriz Casas Arellanas se habrían convertido oficialmente en abogados defensores de los acusados, impugnando su detención y denunciando su tortura. En febrero de 2003, después de que los tribunales habrían concedido un recurso a favor de las 10 personas que permanecían detenidas, Samuel Castellanos habría hecho declaraciones públicas en las que habría subrayado supuestas irregularidades y violaciones de los derechos humanos en el proceso en contra de estas 16 personas.

318. El 17 de abril de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Presidente-Relator del Grupo de Trabajo sobre la Detención Arbitraria y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas con respecto a la represión sufrida por las **comunidades indígenas de Huazulco y Amilcingo**, Morelos. El 10 de abril de 2003, por la mañana, unos 300 campesinos habrían

solicitado solución a sus demandas no resueltas por la construcción de un pozo de agua por el ayuntamiento de Temoac presidido por Mary Paz Barreto. La presidenta municipal habría levantado una demanda penal ante la Procuraduría General de Justicia (PGJ) y habrían sido detenidos Abraham Romero Zamora, Ruperto Zamora, Pedro García y otra persona, todos ellos integrantes del Comité del agua potable y obras públicas. Hacia las 14.00 del 10 de abril, habrían llegado más de 80 patrullas y habrían realizado un operativo, deteniendo y golpeando a 11 personas. Un poco más tarde, como a las 18.30, se habría incrementado el número de policías y habrían vuelto a hacer otro operativo, suscitándose un enfrentamiento con el pueblo que habría respondido con piedras dañando algunas patrullas. La policía habría entrado violentamente en varios negocios y casas-habitación, rompiendo camas, roperos y muebles, como en la tienda del centro y en el molino de Nixtamal, deteniendo a 35 personas más y lesionando a otras 50. **Sotero Lavín**, de 57 años de edad, habría sufrido severos golpes en la boca y el rostro. A un joven de nombre **Cornelio** lo habrían trasladado inconsciente por los golpes. Habrían golpeado severamente a **Lázaro Lavín**, de 22 años. Entre los detenidos están **Catarino Romero Cerezo** y **Antonia**, la esposa de **Humberto Sandoval Zamora**, a quien se considera uno de los principales dirigentes del movimiento. También se habría realizado un retén policiaco a medio kilómetro de Amilcingo, en donde los policías señalaban, bajaban a los hombres que viajaban en el servicio público y después de golpearlos los detenían, conduciéndolos con rumbo desconocido, por lo que hasta el momento se consideran desaparecidos, aunque según informes, habrían sido conducidos a los separos de la PGJ. Se habla de que se habrían escuchado disparos aislados.

319. El 23 de abril de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la cuestión de la tortura, 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 con respecto a la situación de **Samuel Alfonso Castellanos Piñón** y otros miembros de la oficina regional en Oaxaca de ACAT y de ODHIO, cuyo caso ya fue objeto de un llamamiento urgente enviado el 6 de marzo de 2003 por la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, el Relator Especial sobre la cuestión de la tortura y el Relator Especial sobre la independencia de magistrados y abogados. Se informa de que estas personas, que trabajan como abogados defensores de los acusados de la masacre de 26 indígenas en Agua Fría en mayo de 2002, habrían sido repetidamente amenazadas. Se ha recibido nueva información que indica que Samuel Alfonso Castellanos Piñón habría recibido otra amenaza de muerte anónima el 31 de marzo de 2003. La carta habría sido enviada a la oficina regional de ACAT. Se alega que su contenido era muy agresivo y hacía suponer que quien la redactó conoce bien las actividades diarias de los trabajadores de ACAT-Oaxaca. En la carta Samuel Alfonso Castellanos sería advertido de que si no dejaba de trabajar como abogado defensor de dichas personas, sería asesinado. Como se comunicó en el precedente llamamiento urgente, dichas amenazas habrían empezado cuando Samuel Alfonso Castellanos Piñón y sus colegas habrían denunciado públicamente que las personas acusadas de la masacre de Agua Fría fueron torturadas durante la investigación.

320. El 7 de mayo de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas en relación con la desaparición forzada de **Marcelino Santiago Pacheco**, indígena zapoteco perteneciente a la Organización de Pueblos Indígenas Zapotecos (OPIZ). Según la información recibida, el 28 de abril de 2003, en Oaxaca, Marcelino Santiago

Pacheco habría salido rumbo al centro y no se le habría vuelto a ver. Se informa de que habría tenido que encontrarse con otros compañeros de las comunidades de Loxicha para una reunión urgente el 29 de abril en el albergue de la Ciudad de Oaxaca pero no se habría presentado a esta reunión. Marcelino Santiago Pacheco ya habría sido víctima de una desaparición forzada que habría durado 9 meses. Según la información recibida, en octubre de 2002 la OPIZ habría presentado una denuncia contra el ex gobernador y ex secretario de gobernación, el ex procurador y ex director de la policía judicial del Estado por las violaciones de derechos humanos cometidas contra indígenas zapotecos. Aún se esperaría la cita para que Marcelino Santiago Pacheco haga la ampliación de su denuncia. Se teme que su desaparición sea consecuencia de su trabajo en la defensa de los derechos de los indígenas zapotecos.

321. El 15 de agosto de 2003, la Representante Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas en relación con una serie de amenazas recibidas por la familia de **Griselda Tirado Evangelio**, abogada y activista defensora de los derechos de los indígenas en la región de la Sierra Norte en Puebla y miembro de la Organización Independiente de Totonaca. Griselda resultó muerta el pasado día 6 de agosto como consecuencia de los disparos recibidos por parte de unos desconocidos cuando se disponía a salir de su domicilio. Según las informaciones recibidas, el 11 de agosto de 2003 un grupo de individuos no identificados habrían rodeado la casa de Griselda Tirado Evangelio intimidando y amenazando a varios de sus familiares que allí se encontraban, incluidos algunos menores de edad y se teme que su integridad física pueda estar en peligro. Se informa de que la familia habría expresado su preocupación por la supuesta falta de agilidad en el proceso de investigación de la muerte de Griselda Tirado Evangelio así como la denuncia de que la muerte estaría directamente relacionada con su trabajo como defensora de los derechos de los indígenas y con su supuesta candidatura para las elecciones municipales. Se alega además que estas informaciones reflejan la situación general en la que se encontrarían los defensores de los derechos humanos de los indígenas en la región.

322. El 13 de noviembre de 2003, la Representante Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias con respecto a la situación de **Evangelina Arce**, madre de Silvia Arce, desaparecida en 1998 en Chihuahua, y de **Marisela Ortiz Rivera**, miembros ambas de la ONG Nuestras Hijas de Regreso a Casa, quienes habrían sido muy activas en la campaña para la verdad y la justicia en los casos de las mujeres raptadas y asesinadas en Ciudad Juárez, Estado de Chihuahua y quienes habrían recibido amenazas. Según las fuentes, el 11 de octubre de 2003, a las 15.00, un hombre que se habría presentado como miembro de la oficina del Fiscal especial para la investigación de asesinatos de mujeres pero quien no habría llevado documento de identificación se habría presentado en el domicilio de Evangelina Arce y habría pedido a una de las hijas fotos de Silvia Arce. El hombre habría precisado ser un traductor trabajando para un experto forense extranjero, quien habría sido contratado por la Oficina del Fiscal Público del Estado para identificar los restos de ocho mujeres que habrían sido raptadas y asesinadas, entre las que podría encontrarse Silvia Arce. Según los informes recibidos, el hombre habría intentado presionar a la hermana de Silvia Arce para que fuese a identificar el cuerpo de ésta a la oficina del Fiscal. Después, el Fiscal habría negado haber enviado representante alguno a casa de Evangelina Arce. Según las informaciones recibidas, unos días antes de este suceso, un oficial de la policía judicial del Estado habría estado observando la casa de Evangelina Arce en un coche.

Evangelina Arce habría denunciado el incidente, pero las autoridades se habrían negado a tomar las medidas necesarias para poder identificar al supuesto oficial de la policía judicial del Estado. Según los informes, el 24 de octubre de 2003, el coche en el que Marisela Ortiz Rivera viajaba habría sido seguido por dos vehículos, cuyos ocupantes habrían amenazado con matarla a ella y a su familia "si continuaba hablando". Se teme que estas amenazas estén relacionadas con la labor de Evangelina Arce y de Marisela Ortiz Rivera a favor de los derechos de las familias de las mujeres desaparecidas en Ciudad Juárez.

Alegaciones

323. La Representante Especial fue informada sobre el caso de **Bernardo Romero Vásquez**, Presidente de la **Comisión Estatal de Derechos Humanos de Querétaro (CEDHQ)**. Según las informaciones proporcionadas, el 20 de agosto de 2002 Bernardo Romero Vásquez habría acudido junto con **Mónica González Pasillas**, visitadora penitenciaria de la CEDHQ, al Centro de Readaptación Social de San José el Alto con el objeto de llevar a cabo una supervisión de la institución y verificar el respeto de los derechos humanos de los internos. Al llegar al Centro, habrían presentado sus credenciales y un oficio de comisión. Se alega que seguidamente, ambos funcionarios habrían sido sometidos a registros corporales por custodios del Centro y que bajo las presuntas órdenes del Director del Centro, se les habría negado la entrada al centro de reclusión. Posteriormente ambos funcionarios habrían recibido insultos por parte del Director del Centro, quien habría ordenado la expulsión por la fuerza de Bernardo Romero Vásquez de las instalaciones. Durante el incidente se habría negado el uso de los teléfonos a Bernardo Romero Vásquez. Finalmente, éste y su acompañante se habrían retirado sin poder realizar la comisión de inspección y verificación.

324. En el ejercicio de los mandatos, se ha recibido más información sobre **Samuel Castellanos Piñón**, su asistente **Beatriz Casa Arellanas** y otros miembros de ACAT-Oaxaca. El Relator Especial y la Representante Especial enviaron dos llamamientos urgentes el 6 de marzo de 2003 y el 23 de abril de 2003 respectivamente. De acuerdo con la nueva información recibida, el 28 de abril de 2003 Samuel Castellanos Piñón y su equipo habrían recibido una tercera carta con amenazas de muerte. Esta carta haría mención a la acción de Samuel Castellanos Piñón como defensor de las personas acusadas de la matanza de Agua Fría en 2002 y que alegan haber sido torturadas durante la investigación. Además de amenazas contra miembros del ACAT-Oaxaca, dicha carta también transmitiría amenazas contra miembros de OIDHO y del Comité de Derechos del Pueblo (CODEP). Se alega que por el contenido de esta carta, sus remitentes conocen bien las actividades de dichas organizaciones y vigilan sus movimientos, así como los de miembros de la Coordinadora Oaxaqueña Agonista Popular Antineoliberal (COMPA). El Relator Especial y la Representante Especial han sido informados de que a pesar de que la Comisión Interamericana de Derechos Humanos habría solicitado medidas adecuadas para las personas en peligro, las autoridades mexicanas no las habrían tomado. Se alega igualmente que todavía no se habría abierto ninguna investigación sobre las amenazas de muerte recibidas por los miembros de las organizaciones arriba mencionadas. La CEDH habría solicitado informalmente a la PGJE que se tomen las medidas de seguridad necesarias. Sin embargo, la CEDH no habría emitido ninguna solicitud formal al respecto.

Comunicaciones recibidas

325. El 14 de marzo de 2003, el Gobierno de México envió una nota diplomática a la Representante Especial, con información relativa a la situación de **Ernesto Ledesma Arronte**. El Gobierno informa de que con fecha 11 de enero de 2003, la Comisión de Derechos Humanos de Chiapas inició de oficio la queja CEDH/SCR/0012/01/2003, con motivo de una nota periodística publicada en el diario estatal *Cuarto Poder* ese mismo día referida a las presuntas amenazas en contra de Ernesto Ledesma Arronte. Con fecha de 13 de enero de 2003, se emitió en dicha queja una medida precautoria al Gobernador del Estado de Chiapas en la cual se requirió lo siguiente: primero, que se adopten las medidas precautorias o cautelares, necesarias y eficaces que tiendan a garantizar, proteger, promover y hacer efectivas las libertades fundamentales de todas y cada una de las personas que de manera individual o colectiva se encuentran realizando tareas de promoción o protección de los derechos humanos de todo el territorio del Estado; segundo, que se establezca una política pública de pleno respeto a las actividades de los organismos no gubernamentales de derechos humanos, ponderándose la implementación de medidas precautorias o cautelares que tiendan a salvaguardar la seguridad personal de Ernesto Ledesma, su familia y demás miembros de CAPISE; tercero, que, derivado de las denuncias de diversos organismos no gubernamentales publicadas en la nota periodística citada, se giren instrucciones a la PGJE, a efecto de que vele por la legalidad y promueva una debida impartición de justicia, a efecto de dar con los probables responsables de los actos que presuntamente han afectado a Ernesto Ledesma Arronte y demás miembros del CAPISE. En relación con las recomendaciones mencionadas, la autoridad de seguridad pública del Estado de Chiapas manifestó que para resolver y atender la petición, se requiere información complementaria sobre el agraviado, para permitir su aplicación pronta y oportuna. La CEDH de Chiapas ha sostenido comunicación con el Sr. Ledesma Arronte, a quien se le ha notificado del inicio de la queja y de las acciones tomadas por dicho órgano, así como de las respuestas de las autoridades en relación con el caso. Por otro lado, la autoridad ministerial del Estado de Chiapas ya había iniciado una averiguación respecto a los hechos denunciados por Ernesto Ledesma Arronte, con el propósito de investigar adecuadamente si en efecto los hechos configuran o no el delito de amenazas y, de ser el caso, prevenir cualquier otro posible acto que pueda afectar al denunciante. Además, la autoridad ministerial juzgó necesario investigar con mayor profundidad los hechos denunciados antes de determinar la implementación de medidas especiales de protección en favor del Sr. Ledesma y de los demás miembros del CAPISE. El Gobierno informa de que con fecha 6 de enero de 2003, la autoridad ministerial del Estado de Chiapas inició la averiguación previa mencionada, con base de la denuncia de los hechos realizada por Ernesto Ledesma Arronte y enumera las diligencias que se han realizado en dicha investigación.

326. El 29 de abril de 2003, el Gobierno de México envió una nota diplomática a la Representante Especial con información referente a la situación de **Samuel Alfonso Castellanos Piñon**. El Gobierno remite precisiones sobre los hechos e informa que, consciente de sus obligaciones de salvaguardar la integridad de aquellas personas dedicadas a la defensa de los derechos humanos, inmediatamente hizo del conocimiento de las amenazas inferidas en contra de los peticionarios a las autoridades competentes y determinó la implementación de medidas, entre las cuales se puede mencionar el inicio de una queja por parte de la CEDH del Estado de Oaxaca con motivo de los hechos ya citados. Como consecuencia de dicha queja, con fecha de 4 de marzo de 2003, se implementó una medida cautelar para brindar seguridad pública a los peticionarios y para que se diera inicio a las investigaciones correspondientes. Con fecha de 5 de marzo de 2003, el jefe de la Policía Preventiva del Estado implementó rondines periódicos de vigilancia en los domicilios donde tienen sus instalaciones ACAT y OIDHO y en los domicilios

particulares de Samuel Alfonso Castellanos Piñon, Beatriz Casas Arellanes, Carlos Cruz Mozo e Inocencio López Michel, integrantes de las organizaciones de referencia. Además de la queja, la autoridad ministerial local inició una investigación en contra de quien o quienes resulten responsables de la comisión del delito de amenazas en agravio de Samuel Alfonso Castellanos Piñon y Beatriz Casas Arellanes. El Gobierno señala también que fueron otorgadas medidas cautelares a favor de los peticionarios por parte de la Comisión Interamericana de Derechos Humanos.

327. El 30 de abril de 2002, el Gobierno de México entregó una comunicación a la Representante Especial en contestación a la carta de 25 de marzo del mismo año en relación con la situación de **Bárbara Zamora López**. El Gobierno informa de que funcionarios de la PGJ del Distrito Federal se reunieron con la Sra. Zamora el 19 de octubre de 2001 para ofrecerle protección. La Sra. Zamora convino con la Jefatura de la Policía Judicial que se comunicaría con ésta para indicar las medidas de protección que deseaba se le facilitasen. El 22 de octubre de 2001, la Comisión Interamericana de Derechos Humanos solicitó a la Corte Interamericana de Derechos Humanos medidas provisionales a favor de la Sra. Zamora. Esta Corte emitió una resolución el 25 de octubre de 2001 que requería al Estado mexicano que, entre otras medidas, se salvaguardase la vida de la Sra. Zamora, solicitando además que la propia Sra. Zamora participase en la definición de las medidas. El 23 de noviembre de 2001 se establecieron las medidas de seguridad en los términos que solicitó la interesada, es decir, vigilancia en el exterior del despacho jurídico Tierra y Libertad, sito en Antonio Caso n.º. 73, despacho 22, Colonia San Rafael, Ciudad de México, bajo la responsabilidad de la Agencia Federal de Investigación de la Procuraduría General de la República. También solicitó la Sra. Zamora un circuito cerrado de televisión en el interior de su despacho. El 6 de diciembre de 2001 se entregó un proyecto de Convenio de Concertación de Acción y Apoyo entre la Secretaría de Gobernación y la Sra. Zamora para que se implementara dicha medida de protección. La Sra. Zamora manifestó su inconformidad con algunas cláusulas. Para llegar a un acuerdo definitivo, se le presentaron cinco proyectos, con pleno apoyo en el ordenamiento jurídico en vigor; el último de los cuales fue aceptado, esperando la instalación del equipo. Hay que señalar que las autoridades adoptaron en todo momento, en especial la Secretaría de Gobernación, un diálogo constante sobre las modalidades de protección. En lo referente a los correos electrónicos con las amenazas inferidas contra la Sra. Zamora, el 19 de marzo de 2002 la PGJ del Distrito Federal inició una averiguación previa. La Comisión de Derechos Humanos del Distrito Federal ha asistido a la Sra. Zamora cuando ésta formuló la denuncia por delito de amenazas el 19 de marzo de 2002. También atendió la denuncia por amenazas contra la Sra. Zamora presentada por Saúl Vicente Vázquez, Secretario de derechos humanos del Comité Ejecutivo Nacional (CEN) del Partido de la Revolución Democrática, el 20 de mayo de 2002, y la radiación de la queja bajo el expediente CDHDF/121/02/CUAUH/D1302.000 el 22 de marzo del mismo año. También se constata que la Sra. Zamora se negó a la implementación de medidas de protección de su integridad física en la entrevista que mantuvo con el Procurador General de Justicia del Distrito Federal.

328. El 26 de mayo de 2003, el Gobierno de México envió una nota diplomática a la Representante Especial con información referente a la situación de **Marcelino Santiago Pacheco**. El Gobierno informa de que Juan Sozsa Maldonado, representante de OPIZ e integrante de la Coordinación Nacional por la Libertad de los Presos Políticos y de Conciencia, denunció públicamente la desaparición de su compañero Marcelino Santiago Pacheco, a quien se vio por última vez el 27 de abril aproximadamente a las 20.30 en el albergue de los familiares y

excrcelados de la Regi3n Loxicha que fueron procesados por su presunta participaci3n en el Ej3rcito Popular Revolucionario (EPR) en a3os pasados. Dentro de su denuncia p3blica, el Sr. Sosa Maldonado menciona que teme represalias de las autoridades que encarcelaron al Sr. Santiago Pacheco en 1996 y en contra de las cuales present3 una denuncia ante la Fiscalia Especial para Delitos del Pasado, que se encuentra pendiente de ser ratificada. El Gobierno informa que el Sr. Santiago Pacheco fue beneficiado con la Ley de amnistia del Estado de Oaxaca del a3o 2002, con lo cual obtuvo su libertad. Seg3n informaci3n del Gobierno del Estado de Oaxaca, desde el d3a 27 de abril pasado, en que supuestamente desapareci3 dicha persona, hasta el d3a de hoy, no se le tiene registrado como detenido o interno en alg3n reclusorio, sigui3ndose actualmente las investigaciones al respecto.

329. El 3 de julio de 2003 el Gobierno envi3 una nota diplom3tica a la Representante Especial con informaci3n en torno al acontecimiento sucedido a miembros de las **comunidades ind3genas de Huazulco y Amilcingo**, Morelos, el 10 de abril de 2003. El Gobierno remite precisiones sobre los hechos y considera las conductas de los ciudadanos que tomaron parte en los hechos penalmente como delitos, teniendo en cuenta que durante los hechos un grupo de ciudadanos del municipio de Temoac tom3 a tres rehenes (Elizabeth Arag3n Morellanos, Fernando S3nchez R3os y Dioscoro Espinosa Cornejo fueron liberadas bajo la implementaci3n del uso de la fuerza p3blica), lo que condujo a interponer una denuncia de los hechos ante la autoridad ministerial correspondiente. El Gobierno manifiesta que las garant3as individuales y sociales tanto de las personas detenidas por los pobladores como de las personas que perpetraron las conductas delictivas fueron respetadas y tuteladas por el Estado en todo momento. En la acci3n de rescate antes mencionada se detuvieron a 73 personas e inmediatamente se pusieron a disposici3n del ministerio p3blico, quien inici3 la averiguaci3n previa correspondiente por los delitos de privaci3n ilegal de la libertad, da3os, asonada o mot3n, resistencia de particulares y desobediencia, previstos y sancionados por el C3digo Penal vigente del Estado de Morelos. Despu3s de la investigaci3n del ministerio p3blico, esta instituci3n estim3 procedente ejercer acci3n penal en contra de los detenidos, poni3ndolos a disposici3n de la autoridad judicial correspondiente. El Gobierno informa tambi3n de que la autoridad ministerial otorg3 la libertad conforme a la ley a 50 de los 73 detenidos e insiste sobre el hecho de que las garant3as de los detenidos fueron en todo momento respetadas. A 55 de los detenidos se les asisti3 con un abogado de oficio para su declaraci3n ministerial, y en el resto de los casos se cont3 con la defensa de los abogados particulares, quienes posteriormente asumieron la defensa total de los detenidos. A fecha, se encuentra pendiente la audiencia final de pruebas, pero en cuanto se finalice con esta etapa del proceso, los detenidos tendr3n una sentencia que resuelva su situaci3n jur3dica actual. Cabe por fin destacar que la Secretar3a de Gobierno del Estado de Morelos ha visitado a los procesados en el Centro Estatal de Readaptaci3n Social, a fin de informarles sobre su situaci3n jur3dica y ofrecerles apoyo y representaci3n en el juicio penal que enfrentan.

330. El 17 de julio de 2003, el Gobierno proporcion3 informaci3n sobre el caso de **Arturo L3pez Maga3a**, colaborador de la Liga Mexicana para la Defensa de los Derechos Humanos en la ciudad de Playa del Carmen, Quintana Roo. El Gobierno inform3 de que todos los hechos fueron denunciados ante las autoridades ministeriales correspondientes y de esa manera la oficina de la Comisi3n de Derechos Humanos del Estado de Quintana Roo inici3 la investigaci3n correspondiente e inform3 al Gobierno de M3xico de lo siguiente: el 19 de febrero de 2003, se recib3 la respuesta de la Direcci3n de la Polic3a de Tr3nsito Municipal de Playa del Carmen. Dicha respuesta negaba las amenazas y adjuntaba una copia de la tarjeta informativa que

describía el incidente. Según lo establecido por las autoridades correspondientes, la detención se debió a que las placas que portaba el auto del Sr. López Magaña estaban vencidas. Personal de la Comisión se entrevistó con el Sr. López Magaña, quien respecto al informe de la autoridad anteriormente descrito, refirió que efectivamente no ha pagado la tenencia de su automóvil y que, efectivamente, la tarjeta de circulación fue entregada al agente de policía. El Sr. López Magaña manifestó también que fue perseguido por un policía, al parecer por haber apoyado a una persona que realizaba una huelga de hambre. A este respecto, estableció que estaba dispuesto a “llegar a un acuerdo con ese policía”. La Comisión informó que ha solicitado repetidas veces la presencia del peticionario en las oficinas de ese organismo a fin de efectuar algunas precisiones en cuanto a las indagatorias que están llevando a cabo y así estar en posibilidad de continuar con el seguimiento de su queja; no obstante, éste no se ha presentado.

331. El 5 de noviembre de 2003, el Gobierno remitió una nota a la Representante Especial en respuesta a la carta de 5 de agosto de 2003 que juntamente con el Relator Especial sobre la cuestión de la tortura dirigió al Gobierno de México, y en la que solicitaba información sobre la situación de **Samuel Castellanos Piñón** y **Beatriz Casa Arellanos**. En la nota, el Gobierno informa de que está recabando información que será remitida con la mayor brevedad posible.

332. El 17 de noviembre de 2003, el Gobierno envió una nota diplomática a la Representante Especial, en seguimiento de las notas de 28 de octubre y 11 de noviembre de 2003, con información complementaria en torno a los casos, respectivamente, de **Blanca Guadalupe López** y **Miriam Garcia Lara** y de **Victor Javier García Uribe** y **Gustavo González Meza**. El Gobierno informó que el 10 de septiembre de 2002, la Comisión Interamericana de Derechos Humanos solicitó al Gobierno de México la implementación de medidas cautelares a favor de Blanca Guadalupe López, Victor Javier García Uribe y Miriam Garcia Lara. A pesar de que la vigencia de dichas medidas ha caducado, el Gobierno las continúa otorgando mediante la implementación de rondines policíacos en el exterior de las direcciones de los beneficiarios, a fin de salvaguardar su integridad física. Asimismo, a solicitud de Miriam Garcia Lara, actualmente se está gestionando el traslado de Victor Javier García Uribe del Centro de Readaptación Social del Estado de Chihuahua a uno en Ciudad Juárez, Chihuahua.

333. Por cartas de fechas 6 de marzo y 23 de abril de 2003 el Gobierno proporcionó información sobre el caso de **Samuel Alfonso Castellanos Piñón** y los otros miembros de ACAT y de la ODHIO. El Gobierno informó que determinó la implementación de las siguientes medidas. Tras una queja por parte de la CEDH de Oaxaca en consecuencia de la cual, a partir del 4 de marzo de 2003 se implementó una medida cautelar en vía de colaboración a la PGJ de Oaxaca y a la Dirección General de Seguridad Pública del Estado de Oaxaca para brindar seguridad pública a los peticionarios y para que se diera inicio a las investigaciones correspondientes. A partir del 5 de marzo de 2003 el Jefe Operativo de la Policía Preventiva del Estado implementó rondines periódicos de vigilancia en los domicilios de Samuel Alfonso Castellanos, Beatriz Casas Arellanes, Carlos Cruz Mozo e Inocencio López Michel, así como en sus oficinas y ordenó a personal bajo su mando que se constituyera en dichos domicilios y oficinas y se entrevistara con las personas afectadas a fin de proporcionarles un servicio de escolta consistente en recorridos de vigilancia en sus centros de trabajo y sus domicilios particulares. Además, la autoridad ministerial local inició una investigación en contra de los posibles responsables de delitos de amenazas y demás. Finalmente, el Gobierno informó que se

había iniciado una averiguación previa con motivo de la denuncia presentada por Samuel Alfonso Castellanos.

334. Por carta con fecha de 5 de noviembre de 2003, el Gobierno contestó que se estaban recabando los elementos de las instancias competentes en relación con este caso.

335. Por carta fechada el 5 de enero de 2004, el Gobierno informó respecto al caso de **Samuel Castellanos Piñon** y **Beatriz Casas Arellanos**, enviado por la Representante Especial el 5 de agosto, el 5 de noviembre y el 9 de diciembre. El Gobierno hizo saber que del 2 al 10 de diciembre se llevó a cabo una serie de reuniones entre las autoridades del Gobierno de Oaxaca, representantes de Comisión Estatal del Estado de Oaxaca, Samuel Castellanos Piñon, el Procurador General de Justicia de Oaxaca y representantes de la Secretaría de Protección Ciudadana. Informó que llegaron a decidir que conforme a lo solicitado, la Policía Preventiva realizará tres rondines diarios en las oficinas de ACAT y que elementos de la Policía Ministerial mantendrían vigilancia de las oficinas.

336. Por carta fechada el 17 de julio de 2003, el Gobierno informó respecto al caso de **Arturo López Ledezma**. Estableció que una investigación había sido iniciada por la Comisión de Derechos Humanos del Estado de Quintana Roo y, según información recibida por la Comisión de la Dirección de la Policía de Tránsito Municipal de Playa del Carmen, la detención de la persona nombrada se debió a que las placas del auto estaban vencidas. La Comisión informó además de que a pesar de haber solicitado repetidas veces la presencia de Arturo López Ledezma para continuar con el seguimiento de su queja, no se había presentado. El Gobierno confirmó que en cuanto tuviera más información relevante, la pondrá en conocimiento de la Representante Especial.

337. Por cartas fechadas el 28 de octubre y el 11 de noviembre de 2003, el Gobierno proporcionó más información sobre el caso de **Blanco Guadalupe López y Miriam García**. El Gobierno informó de que el 6 de febrero de 2003, previa autorización de Gustavo González Meza, se le practicó una intervención quirúrgica al presentar una hernia. El detenido no presentó complicaciones postoperatorias ni comunicó a las autoridades penitenciarias ningún malestar. Sin embargo, fue encontrado sin vida en su celda el 8 de febrero. El certificado de autopsia precisa que la causa de muerte fue tromboembolia cardiopulmonar, coagulación intravascular diseminada y hemangiomas múltiples.

338. Por carta fechada el 5 de enero de 2004, el Gobierno informó respecto al caso de **Griselda Teresa Tirado Evangelio**. El Gobierno estableció que el 25 de agosto un agente del ministerio público había informado a la Fiscalía de que ya se estaba realizando una investigación. Afirmó que en cuanto se tuviera la certeza de los hechos, se ejecutará la acción penal correspondiente.

Seguimiento de comunicaciones transmitidas previamente

339. Por cartas de 10 de marzo y 10 de noviembre de 2003, el Gobierno proporcionó información adicional en relación con la comunicación enviada el 23 de octubre de 2001 por la Representante Especial junto con la Relatora Especial sobre ejecuciones sumarias o arbitrarias sobre la muerte de **Digna Ochoa y Plácido**. Según el Gobierno, la Fiscalía especial para el caso

habría desarrollado la investigación mediante indagatorias con el fin de establecer las circunstancias relacionadas con el homicidio mediante tres líneas de investigación: militares, Guerrero y entorno social, familiar y personal. Asimismo el Gobierno informó de que a través de declaraciones, diligencias ministeriales, intervenciones periciales e informes de policía judicial y de otras autoridades, se habría logrado determinar que ninguno de los integrantes de los batallones de infantería 19 y 40 del Ejército mexicano estarían involucrados directa o indirectamente en alguna de las actividades desarrolladas por la abogada Digna Ochoa. La línea de investigación Guerrero habría permitido constatar que no existen razones o motivos para suponer que las actividades de la abogada Digna Ochoa afectaran aparentes intereses de caciques explotadores de madera en la sierra de Petatlán y Coyuca de Catalán. Con relación al entorno social, familiar y laboral, se concluyó que, del análisis de las circunstancias no se desprende que alguno de sus familiares, personas que integraban su ámbito de amigos cercanos, compañeros de trabajo, parejas sentimentales o integrantes de la congregación religiosa a la que perteneció hubiese procurado o causado directa o indirectamente su muerte. Desde el punto de vista de su vinculación con el instituto Pro Juárez, su participación como abogada habría sido reducida de manera tal que no existiría evidencia objetiva de que su intervención jurídica hubiese propiciado o causado afectación de los intereses de alguna persona o autoridad relacionada que permitiese establecer vinculación con su muerte. A lo anterior se adjuntó la renuncia de Digna Ochoa al instituto Pro Juárez el 31 de octubre de 2000, en medio de un presunto ambiente de tensión y desacuerdos primordialmente por su inconformidad de salir del país y por las supuestas dudas, por parte de algunos compañeros, respecto del último incidente de amenaza. Otras informaciones recaudadas habrían permitido afirmar que el arma de fuego hallada en el lugar de los hechos habría pertenecido a la víctima y que los testimonios entorno a la presencia de personas desconocidas indicarían que se encontraría justificada como un hecho ordinario y normal, pues se trata de un domicilio que cuenta con despachos de abogados por lo que resultaría cotidiana la entrada y salida de personas desconocidas para los propios habitantes. Con relación a las amenazas, el conocimiento de las averiguaciones que se adelantan por parte de la PGJ continúa en curso, sin embargo las inspecciones habrían permitido determinar la probabilidad de que el contenido de algunos de los escritos hallados o de los que se tiene conocimiento hubiese sido creado por la propia Digna Ochoa. Finalmente el Gobierno informó que, la decisión de la fiscal encargada del caso de no ejercer la acción penal al no demostrarse plenamente la existencia del delito de homicidio, encontraría soporte en los análisis de peritos en materia de psicología y estudio psicodinámico de la personalidad. La mencionada resolución habría sido autorizada el 17 de septiembre de 2003 por parte del coordinador de agentes auxiliares del procurador.

340. Por carta de 18 de noviembre de 2003, el Gobierno respondió a la comunicación enviada por la Representante Especial junto con el Relator Especial sobre la independencia de magistrados y abogados el 25 de marzo de 2002 sobre la situación de **Bárbara Zamora López**. Informó que medidas precautorias a favor de Bárbara Zamora López fueron implementadas el 27 de noviembre de 2001 y el 15 de mayo de 2002 y que se acordó un convenio de apoyo entre la peticionaria y las autoridades del Gobierno mediante el cual se implementaron las medidas de protección solicitadas.

341. Por carta de 5 de enero de 2004, el Gobierno respondió a la comunicación enviada por la Representante Especial el 14 de agosto de 2002 sobre la situación de **Francisco Cortés Pastenes**. Informó que el 30 de agosto la Comisión Interamericana de Derechos Humanos transmitió una nota al Gobierno de México mediante la cual decretó medidas cautelares a favor

de Enedina Cervantes Salgado, esposa de Francisco Cortes Pastenes. En ese sentido el Gobierno implementó las siguientes medidas de protección: una escolta integrada por elementos de la Procuraduría General de la República y un número de seguridad mediante el cual se puede comunicar con el personal de la Unidad de Promoción y Defensa de los Derechos Humanos de la Secretaría de Gobernación (SEGOB).

Observaciones

342. La Representante Especial quisiera agradecer las repuestas del Gobierno, las cuales representan casi la totalidad de las comunicaciones enviadas. También agradece las múltiples acciones tomadas por las autoridades a favor de los defensores de derechos humanos, lo que muestra un gran esfuerzo para colaborar con su mandato. Asimismo la Representante Especial está preocupada por la cantidad de casos de violaciones supuestamente cometidas contra los defensores de derechos humanos, incluyendo, particularmente, amenazas e intimidación y violaciones supuestamente cometidas por agentes de policía.

Morocco

Communications envoyées

343. Le 2 avril 2003, la Représentante spéciale a envoyé un appel urgent concernant l'interdiction de sortie du territoire marocain de 14 défenseurs des droits de l'homme. Ces personnes auraient obtenu leurs visas pour la Suisse afin de participer à des rencontres sur les disparitions forcées au Sahara occidental organisées par le Bureau international pour le respect des droits de l'Homme. Il s'agirait de MM. **Brahim Dahane** et **Bacher Lakhfaoui**, membres du Comité de coordination des familles sahraouis, M. **Sidi Mohammed Daddach**, ancien détenu et lauréat 2002 du prix de la Fondation Rafto (Norvège), MM. **Brahim Noumri** et **Brahim Guarbi**, membres du " Forum Vérité et Justice - section Sahara", M. **Khaya Cheikh**, ainsi que huit membres de familles de disparus ahraouis. MM. Dahane et Noumri auraient du également participer à la cinquante-neuvième session de la Commission des droits de l'homme. Ils auraient été accrédités par l'Association internationale des juristes démocrates. Selon l'information reçue, cette interdiction leur aurait été signifiée, sans motif, le 27 mars 2003, alors qu'ils s'apprêtaient à partir de l'aéroport de Casablanca à destination de Genève. Ils auraient été arrêtés par la police marocaine dans la zone internationale de l'aéroport qui leur aurait confisqué leurs passeports. Ils auraient été immédiatement relâchés sans que leurs documents de voyage ne leur soient restitués.

344. Le 18 juillet 2003, la Représentante spéciale a envoyé un appel urgent concernant **Dkhil El Moussaoui**, membre du Forum Vérité et Justice (FVJ), qui aurait été condamné le 25 juin 2003 par la cour d'appel de Laayoune à un an de prison et 5000 dirhams d'amende pour « incitation à des troubles à l'ordre public ». Dans ce contexte, elle attire l'attention du Gouvernement sur l'appel urgent daté du 2 avril 2003, concernant également la situation de membres du Forum Vérité et Justice. Au vu du harcèlement qu'auraient subi les défenseurs membres du FVJ Section Sahara, des craintes ont été exprimées quant au fait que la condamnation de Dkhil El Moussaoui ne viserait, en réalité, qu'à sanctionner son activité en faveur de la défense des droits de l'homme.

345. Le 14 octobre 2003, 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 sur la situation du **Forum vérité et justice**, une organisation travaillant sur la question des disparitions forcées au Maroc, et au sujet de laquelle deux communications avaient été envoyées respectivement les 18 juillet et 2 avril 2003 par la Représentante spéciale du Secrétaire général sur les défenseurs des droits de l'homme. Le 7 octobre 2003, sur décision du Ministère de l'intérieur et sans en préciser les motivations, la wilaya de Casablanca aurait signifié par téléphone au Forum Vérité Justice l'interdiction d'organiser sa caravane de la Vérité vers l'ancien centre de détention secret d'Agdez prévue du 10 au 12 octobre 2003. Cette caravane viserait à faire la lumière sur les violations graves des droits de l'homme commises au Maroc durant les « années de plomb ». Selon les informations reçues, les participants à la caravane devaient partir de Rabat et de Casablanca en autocar le 10 octobre. Le Forum n'aurait cependant pas obtenu l'autorisation du Ministère des transports d'affréter les autocars. Par ailleurs, la wilaya d'Agdez aurait également interdit le sit-in devant l'ancien centre de détention.

Communications reçues

346. Par lettre datée du 5 juin 2003, le Gouvernement a informé la Représentante spéciale que le 27 mars 2003, les services de l'aéroport de Casablanca avaient empêché un groupe de ressortissants des provinces sud de se rendre à Genève où ils comptaient d'après le Gouvernement participer à des actions hostiles à l'intégrité territoriale du Royaume du Maroc. Le Gouvernement a indiqué qu'aucun de ces ressortissants n'avait fait l'objet d'une détention ni d'actes d'intimidation. Leurs passeports ont été confisqués par mesure conservatoire au vu du fait que certaines de ces personnes constituent selon le Gouvernement des « éléments agitateurs » qui se réclament indépendantistes et ont par le passé fait l'objet de condamnations pour complicité ou contribution directe à des activités d'espionnage contre la sécurité de l'Etat marocain. Le Gouvernement a précisé que la police des frontières, procédant aux vérifications d'usage avant embarquement, a trouvé certaines de ces personnes en possession de matériel considéré comme subversif destiné à être distribué à l'étranger. Le Gouvernement a indiqué que tout en demeurant attaché à la garantie des libertés publiques, le Royaume du Maroc ne saurait en aucun cas tolérer des activités visant à porter atteinte à son intégrité territoriale. Le Gouvernement a indiqué que le Code pénal interdisait la communication d'information ou l'entretien de relations avec des parties étrangères à même de porter préjudice à l'image du Royaume ou à son intégrité territoriale et que le code de la presse prévoyait des sanctions contre les publications séditieuses. Le Gouvernement a affirmé avoir de ce fait agit selon sa législation qu'il considère en conformité avec les normes internationales qui autorisent les Etats à soumettre la jouissance des libertés aux limitations fixées par la loi interne et à restreindre la liberté pour protéger la sécurité nationale et l'ordre public. D'après le Gouvernement, les mesures prises ne constituaient pas une atteinte à la liberté de circulation mais un acte afin de prévenir la jonction de certains ressortissants avec des éléments du Front POLISARIO. Le Gouvernement a rappelé qu'il coopérait avec les deux organismes mandatés sur les questions des personnes disparus. Dans ce cadre, le Comité international de la Croix-Rouge (CICR) a effectué une mission d'investigation en 2001 et identifié 24 personnes vivantes ayant fait l'objet d'allégations de disparition, et que 103 cas de disparitions avaient été élucidés avec le concours du CICR en 2002. Le Gouvernement a rappelé qu'il coopérait également avec le Groupe de travail sur les disparitions forcées ou involontaires et que depuis 1980, 134 cas sur 249 avaient été élucidés. Par ailleurs, l'instance d'arbitrage indépendante pour l'indemnisation des préjudices matériels et

moraux subis par les victimes de disparition et détention arbitraire et leur ayants droit, créée en 1999, a recensé 5127 demandes au 31 décembre 1999, date butoir de dépôt des dossiers. Près de 3400 sentences ont été rendues dont 2800 allouant des indemnités en faveur de 3700 bénéficiaires d'un montant de 80 millions.

347. Le gouvernement marocain par lettre en date du 3 Octobre 2003 a répondu à la communication concernant **Dkhil El Moussaoui** envoyée par la Représentante spéciale le 18 juillet 2003. Le Gouvernement marocain a informé la représentante que l'avocat général de la cour d'appel de Laayoune avait indiqué que l'intéressé avait fait l'objet d'une enquête concernant sa participation aux émeutes ayant eu lieu à Laayoune et dans le quartier de Wahda au cours desquelles la porte du poste de police du quatrième district a été brûlée, les fenêtres de véhicules privées brisées, des pierres et des cocktails Molotov lancés contre des échoppes et des biens publics dégradés. Le gouvernement a également indiqué que lors de son interrogatoire, l'intéressé avait confessé avoir endoctriné des étudiants au chômage, les encourageant à se soulever contre les autorités publiques y compris le groupe responsable des incidents. Le 25 juin 2003, il a été condamné à un an de prison et 5000 dirhams d'amende pour utilisation de matériel inflammable, atteintes au bien public et incitation au crime. Il a été fait appel de la décision.

348. Par lettre en date du **22 janvier 2004**, le Gouvernement marocain a envoyé un complément de réponse à la communication concernant **Dkhil El Moussaoui** informant que l'intéressée avait bénéficié d'une Grâce Royale le 7 janvier 2004 pour raisons humanitaires.

Observations

349. La Représentante spéciale remercie le Gouvernement pour ses réponses et la volonté de collaboration dont elles témoignent et se félicite de la Grâce Royale accordée à Dkhil El Moussaoui. Elle espère recevoir très prochainement des réponses à ses autres communications.

Namibia

Communications sent

350. By letter dated 19 November 2003, the Special Representative transmitted an urgent appeal concerning the defamation campaign against the National Society for Human Rights (NSHR), an organization that works to ensure observance of the rights enshrined in international law and in the Namibian Independence Constitution, and its executive director, **Phil ya Nangoloh**. On 14 September 2003, the Minister of Home Affairs was allegedly quoted by the Namibia Press Agency as having said that the NSHR was a tool used by "the enemy of Africa and Namibia in particular" in order to "destroy the unity" of the country. On 13 November 2003, the Minister of Home Affairs allegedly accused NSHR of having a "hidden agenda", and of seeking to tarnish the image of the Government of Namibia. On 17 November 2003, the Deputy Minister and Public Relations Officer of the Ministry of Tourism and the Environment allegedly described NSHR as an "enemy", an agent of the American CIA and of "Western imperialism" on an NBC programme in Namibia. It is further alleged that they condemned the "subversive activities" of NSHR and stated that these activities could "no longer be tolerated". This concern

is heightened by reports that Phil ya Nangoloh has allegedly received several death threats, and that in 1991, his home was allegedly attacked by soldiers.

Observations

351. The Special Representative regrets that at the time of the finalization of her report no response had been received from the Government.

Nepal

Communications sent

352. On 1 October 2003, the Special Representative, in conjunction with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, transmitted an urgent appeal regarding **Akash Lama, Nirmala Bhandari (f) and Ujjwal Sukla**. Akash Lama, a 16-year-old member of the Tamang ethnic group and bus company employee, was reportedly arrested by five uniformed army personnel on 8 September 2003 while asleep on a bus in Lalitpur, near Kathmandu. A 22-year-old man who was in the bus with Akash Lama was reportedly arrested in the same circumstances. The reasons for their arrest are not known but it is thought that they may be due to the fact that they allegedly broke the curfew, which had been declared by the District Administration Office in Lalitpur. It is reported that the owner of the bus company and relatives of Akash Lama received no information about his whereabouts, despite making enquiries. Nirmala Bhandari, a student, was reportedly arrested at her home in Balaju, Kathmandu, on 15 September 2003 at about 22.30 and taken away by five masked plain-clothes members of the security forces. The reasons for her arrest and her current whereabouts are not known. She had allegedly been previously arrested by police and detained by the army for a month during the state of emergency from November 2001 to August 2002. Ujjwal Sukla, a lawyer and member of Amnesty International, an international human rights non-governmental organization, was reportedly arrested at his home in Lalitpur, on 23 September 2003 at about 21.00 and taken away by nine members of the security forces, two of whom allegedly wore masks. The name of one of those who reportedly arrested him is known to the Special Rapporteurs and the Special Representative. He was allegedly taken to an unknown location and the reasons for his arrest are unknown. The alleged detention of Akash Lama and his friend have been reported to the NHRC, which is said to be conducting inquiries into these cases. In view of the reported detention at undisclosed locations of the four persons named above, fears have been expressed that they may be at risk of torture or other forms of ill-treatment.

353. On 6 October 2003, the Special Representative, in conjunction with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, transmitted an urgent appeal regarding **Ram Bahadur Limbu**, member of the central committee of the Kirat Yakthung Chumlung (KYC), a non-governmental organization concerned with the preservation and promotion of the Limbu ethnic group, who was reportedly arrested by plain-clothes security personnel on 26 September 2003 in Indrapur Village Development Committee (VDC), Morand District. He is alleged to be currently

held in incommunicado detention. The Ministry of Defence allegedly issued a press statement confirming his arrest, and claiming that he was the regional chairman of the Limbuwan Liberation Front, which is said to be affiliated to the Communist Party of Nepal (CPN) (Maoist), a charge that has allegedly been denied by his relatives. Concerns have been expressed that Ram Bahadur's reported arrest and detention might be connected to his work in favour of the rights of the Limbu ethnic group. In view of his alleged incommunicado detention at an undisclosed location, fears have been expressed that he may be at risk of torture or other forms of ill-treatment.

Communications received

354. By letter dated 6 October, the Government acknowledged receipt of the urgent appeal sent by the Special Representative on 1 October regarding **Akash Lama, Nirmala Bhandari** and **Ujjwal Sukla** and stated that more detailed information had been requested which would be forwarded to the Special Representative as soon as it was received.

Observations

355. The Special Representative thanks the Government for its acknowledgement of the receipt of her communication and is still awaiting responses to her communication. She 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 such request will receive a favourable answer shortly.

Nigeria

Communications sent

356. By letter dated 13 December 2002, the Special Representative transmitted an urgent appeal regarding the situation of **Tajudeen Abduraman**, a member of the Centre for Democracy and Development (CDD) who was arrested at Murtala Muhammed Airport (Lagos) on 3 December 2002 as he was leaving the country on his way to London. His passport was reportedly confiscated and he was allegedly ill-treated. He was later released, but his passport was reportedly not returned to him. Information was also received regarding **Iheoma Obibi**, the Executive Director of Alliances for Africa, a regional human rights and development organization, was reportedly arrested on 6 December 2002 by State Security Services (SSS) at Murtala Muhammed Airport on the way out of the country, also en route to London. Although **Iheoma Obibi** was released that day, his passport was reportedly not returned to him. In addition, according to the information received, on 6 December 2002 officials of SSS allegedly raided the offices of Women Aids Collective, a women rights NGO in Enugu, seeking to arrest **Joy Ezeilo**, the Executive Director of the organization. Joy Ezeilo was reportedly absent when the raid occurred. As they departed, the SSS officials reportedly indicated that they would come back to get Joy Ezeilo in the near future.

357. By letter dated 14 November 2003, the Special Representative transmitted an urgent appeal concerning the death threats against **Churchill Ibeneche**, Executive Director of the Consulting Centre for Constitutional Rights and Justice (C3RJ), a non-governmental organization which advocates against torture and works to provide rehabilitation to torture victims, as well as against staff members of the organization. According to the information received, on 24 October 2003, approximately 20 armed men allegedly broke into the torture treatment centre of the National Secretariat of C3RJ, vandalized the premises, threatened staff with death and ordered them to move out of the premises within 24 hours. The C3RJ members reportedly evacuated the office. The armed group reportedly returned to the premises 24 hours later, and allegedly took away the remaining books, files, computer disks and research materials. According to the information received, this matter has been reported to the police, but C3RJ has allegedly been unable to continue its work.

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

358. By letter dated 27 February 2003, the Government responded to the communication sent on 18 October 2003 by the Special Representative regarding **Isioma Ojughana** and **Ijeoma Nwachukwu**. The Government informed the Special Representative that both women were contributors to a book published by the Centre for Law Enforcement Education (CLEE), which was considered seditious, inciteful and inimical to public order and national security and that for this reason, copies of the book had been seized. The Government stated that SSS, which was investigating the role of the two women in the publication of the book, had visited the CLO office to invite Isioma Ojughana and Ijeoma Nwachukwu to make statements. No attempts had been made to arrest them and no warrants had been issued for their arrest. The Government stated that the behaviour of the SSS personnel therefore could not amount to harassment.

Observations

359. The Special Representative regrets that at the time of the finalization of this report the Government had not transmitted a reply to any of her communications sent in 2003. She further regrets that no response has been given to her request sent on 1 July 2002 for an invitation to conduct an official visit to the country.

Pakistan

Communications sent

360. On 24 March 2003, the Special Representative transmitted an urgent appeal concerning the alleged abduction and arbitrary detention of **Akhtar Baloch**, a journalist working in the Hyderabad Task Force office of the Human Rights Commission of Pakistan (HRCP), a non-governmental organization. It is reported that at the end of the HRCP Annual General Meeting in the Indus Hotel on 23 March, in which Akhtar Baloch took part, participants, including Akhtar Baloch, conducted a peaceful march in protest at the ongoing war in Iraq. At the conclusion of the march he reportedly returned to the Indus Hotel to settle the accounts for the HRCP meeting. He is then reported to have left the hotel at about 19.30 in an HRCP staff car with an HRCP driver. According to the information received, the car was made to stop by two motorbikes a

short distance away from the hotel and that a white jeep also stopped behind the HRCP car. Three men in civilian clothes from the jeep allegedly dragged Akhtar Baloch out of the HRCP car, and told the HRCP driver to drive away without looking back, or he would be shot. According to the information received, the driver was able to see the licence number of the white jeep, which he later noted down. Administrative and police officials have reportedly suggested to HRCP that Akhtar Baloch may be in the custody of military intelligence agencies. According to the information received, the alleged abduction of Akhtar Baloch could be related to reports published by the HRCP alleging human rights violations committed by the military authorities. In particular, the HRCP annual State of Human Rights Report was made public on 18 March 2003 and raises concerns about the elections and constitutional amendments as well as the alleged silencing of dissent by threats, intimidation and harassment carried out by military intelligence agencies. The public statement made by HRCP at the conclusion of the annual meeting in Hyderabad reportedly reiterated these concerns.

361. On 17 October 2003, 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 Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding the alleged arrest of **Rasheed Azum**, who is reported to be the Secretary-General of the Youth Development Organization, a community development organization, a journalist with *Intikhab*, *Asap* and *Roshnai*, focusing on development and civil rights issues, and president of the Jhalawan Union of Journalists. According to the information received, on 15 August 2003, Rasheed Azum was arrested in Khuzdar by local police, allegedly without any reason being given to him for his arrest. The information indicates that the reason suggested by the police for Rasheed Azum's arrest was that he had distributed, in Khuzdar, a poster depicting images of alleged human rights violations by army soldiers. The information also indicates that the poster was described as "seditious" and that reference was reportedly made by the police to sections 153 and 505 of the Pakistani Penal Code. According to the information received, Rasheed Azum was reportedly taken before a local magistrate on three occasions, on 16, 22 and 28 August 2003. The magistrate allegedly failed to ask Rasheed Azum whether the police had used torture against him, a question that is reportedly required of the magistrate under Pakistani law. On 28 August 2003, when the investigative remand period had expired, the local magistrate reportedly remanded Rasheed Azum in judicial custody at Khuzdar Central Prison pending trial. In addition, according to the information, on three occasions, namely on 17, 18 and 19 August 2003, Rasheed Azum was allegedly taken to Khuzdar police station by unknown persons, was blindfolded once there and then taken to an unknown destination where he was allegedly tortured for several hours before being returned to the police station, and then back to the Central Prison. Concern has been expressed that Rasheed Azum's reported arrest, detention and torture are due to his human rights activities.

362. On 22 October 2003, the Special Representative sent an urgent appeal regarding the alleged harassment of members of Struggle for Change (SACH), an organization that works to address, inter alia, incidents of torture and provides rehabilitation services such as shelter, legal aid and medical care. According to the information received, a divorced woman has been receiving assistance from SACH lawyers in filing a suit for the custody of her children, and is reportedly also residing in a Sach Shelter Home, in Islamabad. As of late August 2003, the woman's former husband allegedly began telephoning the SACH offices, making death threats against members of staff and faxing pornographic pictures to the offices. On 26 September 2003,

members of SACH reportedly met with the Minister of the Interior to inform him of the situation. It is reported that members of SACH continue to receive threats from the same person and that there has not yet been any official action on their behalf. Concern has been expressed that members of SACH are being targeted as result of their human rights work , including the provision of rehabilitation services.

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

363. By letter of 30 June 2003, the Government replied to the communication sent by the Special Representative on 1 June 2002 regarding the situation of **Tahir Khalil**. The Government stated that the Ministry of the Interior, the Home Department of the Government of Punjab and the Inspector General of the Police had been instructed to ensure the personal safety of Tahir Khalil. To the Government's knowledge he was pursuing his professional and personal activities without any fear or intimidation.

364. By letter of 4 July 2003, the Government replied to the communication sent on 8 November 2002 by the Special Representative regarding the arrest of Father **Arnold Heridia** and **Aslam Martin**. The Government stated that they had been detained on 10 January 2001 for their involvement in a procession against the blasphemy law that subsequently turned violent and resulted in several breaches of the Penal Code. They were both released on bail on 16 January 2001.

Observations

365. The Special Representative welcomes the release of Akhtar Baloch on 25 March 2003. However, she regrets that at the time of the finalization of this report the Government had not transmitted any reply to the communications sent this year. The Special Representative hopes to receive a positive response to her request to the Government, sent on 14 October 2003, for an invitation to conduct an official visit to the country.

Panama

Comunicaciones enviadas

366. La Representante Especial fue informada de que en la madrugada del 14 de agosto de 2002 habrían sido allanadas las oficinas del **Servicio Paz y Justicia (SERPAJ)**. Según la información proporcionada, los que habrían allanado las oficinas habrían robado equipos electrónicos y de funcionamiento administrativo, así como importantes documentos de investigación y archivos. Según estas informaciones, entre los documentos presuntamente robados se encontraban informes relativos a una investigación sobre el tráfico de armas en la región y en Panamá y 200 ejemplares de una reciente publicación sobre armas livianas en el país. También habrían sido sustraídos videos relacionados con las actividades de la organización. La

SERPAJ habría interpuesto una denuncia ante la Policía Técnica Judicial de la Ciudad de Panamá el 15 de agosto.

Comunicaciones recibidas

367. Por carta fechada el 23 de abril, el Gobierno contestó a la alegación transmitida por la Representante Especial. Informó de que al haber verificado los registros y controles del Centro de Recepción de Denuncias en la División del Delito contra la Propiedad de la Policía Técnica Judicial, ninguna denuncia con relación a los hechos descritos fue registrada por la organización SERPAJ. A ese respecto, hizo saber que agradecería se le suministre más información sobre la autoridad ante la cual se interpuso la denuncia.

Observaciones

368. La Representante Especial agradece la respuesta del Gobierno.

Peru

Comunicaciones enviadas

369. El 30 de enero de 2003, la Representante Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión en relación con las presuntas amenazas y el ataque del que habría sido víctima la abogada **Gloria Cano**, representante legal de la Asociación Pro Derechos Humanos (APRODEH) y de los familiares de las víctimas del grupo Colina. Según la información recibida, el 27 de enero de 2003 por la mañana, un grupo de seguidores del ex presidente Alberto Fujimori habría agredido a la abogada Gloria Cano. El hecho se habría producido cuando la Sra. Cano iba a ingresar al local de la organización. Se alega que el grupo constituido de unas 20 personas la reconoció, rodeó e insultó, pero se habría visto obligado a retirarse ante la reacción del personal de la institución, que salió en defensa de la abogada. Minutos antes, el grupo de personas se habría encontrado frente a la sede de APRODEH para proferir insultos y amenazas contra la labor que la organización realiza en defensa de los derechos humanos. Se alega que sus integrantes intentaron ingresar por la fuerza al local, pero desistieron frente a la resuelta disposición de los trabajadores. Entonces habrían anunciado que éste era sólo el comienzo de toda una serie de actos de hostilidad que emprenderán contra APRODEH y quienes laboran en la institución. Según la información recibida, APRODEH inició una campaña contra la impunidad y la corrupción cuyo objeto es la extradición del Sr. Fujimori y la sanción de sus cómplices en presuntas violaciones de los derechos humanos. En la madrugada del jueves 23 de enero, seguidores del ex presidente habrían roto afiches de la campaña, arrojándolos frente a la sede de la organización y habrían pegado los suyos en el mural realizado por el artista Víctor Delfín ubicado en la entrada. La Sra. Cano habría presentado una denuncia por agresión ante las autoridades policiales. Asimismo, **Miguel Jugo**, Director ejecutivo de la institución, habría solicitado a las autoridades las correspondientes garantías.

370. El 23 de junio de 2003, la Representante Especial envió un llamamiento urgente con respecto a las amenazas recibidas por **Carlos Bocanegra Espinoza**, activista de derechos

humanos en Tabalosos, departamento de San Martín. Según la información recibida, el 17 de junio de 2003 el Sr. Bocanegra Espinoza habría encontrado en la puerta de su domicilio un mensaje en el que se le exigía, por un lado, la retirada de los carteles relativos a la campaña de extradición del Sr. Fujimori y, por otro, que cesara en su apoyo a la Comisión de la Verdad y la Reconciliación. El Sr. Bocanegra Espinoza colabora con Amnistía Internacional y APRODEH en la recolección de firmas a favor de la extradición del ex mandatario así como con la campaña promovida por la Comisión de la Verdad y la Reconciliación para encontrar a personas desaparecidas. Según la fuente, el hermano del Sr. Bocanegra Espinoza habría “desaparecido” en Tabalosos. Ante esta situación el Sr. Bocanegra habría acudido el día 17 de junio a la comisaría local y a la alcaldía de Tabalosos. Asimismo, APRODEH habría solicitado protección para el Sr. Bocanegra Espinoza a las autoridades competentes.

Alegación

371. La Representante Especial y la Relatora Especial fueron informadas de que el 31 marzo de 2001, **Godfredo García Baca**, líder campesino que se oponía al desarrollo de un proyecto minero en el valle de San Lorenzo y Tambogrande, en Piura, fue asesinado. Godfredo García Baca era fundador y presidente de la Asociación de Productores del Valle, así como miembro del Frente de Defensa de Tambogrande y del Comité Directivo Regional del Foro Ecológico de la Región Piura. Según las informaciones proporcionadas, el asesinato de Godfredo García Baca podría haberse motivado por sus actividades como activista y opositor del proyecto minero de la compañía Manhattan Minerals, que desde 1997 habría intentado establecerse en la zona.

Observaciones

372. La Representante Especial lamenta no haber recibido una respuesta del Gobierno. También lamenta los ataques supuestamente cometidos contra los defensores de derechos humanos.

Republic of Korea

Communication sent

373. On 3 October 2003, the Special Representative, in conjunction 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, transmitted a letter of allegation regarding the alleged injuries of **Lee Soo-ho**, Secretary-General of the Korean Confederation of Trade Unions (KCTU), **Kim Young-je**, the KCTU Director for Reunification Affairs, and **Jang Kwang-su**, the Secretary-General of Korean Federation of Construction Daily Workers Unions, inflicted by the police on 7 December 1999 when riot police allegedly stormed a sit-in for the abolition of the National Security Law. Over 300 members of the Daewoo Motors Workers Union of the Pupyong Plant and their lawyer, **Park Hoon**, are reported to have been severely beaten by riot police on 10 April 2001. It is reported that the unionists were prevented from entering their office, which had been closed down by the Daewoo's management, and peacefully protested against the police obstruction. The unionists reportedly responded to the alleged beatings by taking their shirts off and lying down on the street. However, the police reportedly

kept slashing and beating them with batons for approximately 30 minutes. It is reported that 43 unionists were taken to the hospital. Park Hoon is also reported to have been severely beaten and is believed to have been hospitalized. On 7 March 2001, the Daewoo Motors Workers Union reportedly filed a court injunction regarding the obstruction of its activities and the entry into its original office. The Incheon District Court reportedly ruled, on 6 April 2001, in its favour and ordered that the unionists be allowed back to their office to conduct their legitimate activities. The Special Rapporteurs and the Special Representative have been informed that the incident is linked to the dismissal, on 16 February 2001, of around 1750 workers of the Daewoo Motors, many of whom were reportedly union activists or militants in the Pupyong Plant.

Observations

374. The Special Representative welcomes the ruling in favour of Daewoo Motor's Workers Union but regrets that, at the time of the finalization of this report, the Government had not transmitted a reply to her communication.

Russian Federation

Communications sent

375. On 4 April 2003, the Special Representative, in conjunction with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, sent an urgent action regarding alleged abduction of **Arjan Erkel** in Makhachkala, Daghestan. According to the information received, Arjan Erkel, a Dutch national, was serving as head of Mission for the Swiss branch of the non-governmental organization Médecins sans frontières in Daghestan. The Médecins sans frontières office was responsible for the management of regional programmes involving the provision of medical assistance for populations in Daghestan and Chechnya, including drug distribution, mobile clinics, and hospital rehabilitation. According to the information, on 12 August 2002, at approximately 21.30, three unidentified men armed with pistols forced Mr. Erkel into a silver coloured 'VAZ 21099' car without license plates, in the suburb of Makhachkala. The driver of a Médecins sans frontières vehicle, Radjabov Gadjimurad Rabadanovich, reportedly witnessed the abduction. A subsequent investigation by local authorities involved the questioning of a number of Médecins sans frontières staff and a case file was opened with the Prosecutor's Office of the Leninsky District of Makhachkala as Investigation Number 201860, on the basis of a suspected kidnapping. As at February 2003, no progress had been made towards determining the whereabouts of Arjan Erkel or the persons responsible for his alleged abduction.

376. On 24 July 2003, the Special Representative, in conjunction 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, transmitted an urgent appeal on the alleged arrest of **Bakhrom Mardonovich Khamroeve**, a Russian human rights defender of Uzbek origin. On 24 June 2003, Mr. Khamroeve reportedly spoke at a press conference in Moscow on the theme "Operation against Islamic Extremists in Moscow: the Official Version and Actual Events". The Press conference was reportedly organized by the Memorial Human Rights Center to draw attention to concerns regarding the human rights of 55

individuals from Central Asia allegedly detained in Moscow on the night of 6 and 7 June 2003, on suspicion of participating in a terrorist organization, Hizb ut Tahrir. Hizb ut Tahrir is reportedly a non-violent group advocating for the establishment of an Islamic Caliphate. In June 2003, Khamroev's wife was allegedly asked by the organized crime branch of the Moscow Region (PUAOC) to inform them regularly about her husband's contacts and activities, and threatened with "serious consequences" if she refused. On 27 June 2003, Khamroev's brother Farmon was allegedly detained in Russia by PUAOC and questioned about Khamroev's political and religious views. On 20 July 2003, Khamroev was reportedly arrested in Moscow on suspicion of possessing illegal narcotics with the intent to sell. Concerns have been expressed that this recent arrest may be connected with Khamroev's human rights work, in particular with regard to the political and religious rights of persons of Uzbek origin living in Russia. In the past, Khamroev has reportedly collaborated with the Memorial Human Rights Centre on a number of human rights cases. He has also reportedly acted as spokesman of the opposition magazine *Kharakat*.

377. On 18 September 2003, 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 appeal regarding the situation of the non-governmental organizations working on minority rights issues in the Krasnodar territory. On 22 July 2003, the Krasnodar Ministry of Justice reportedly requested that School of Peace, a foundation that works on the human rights of children, on human rights education and on the promotion of tolerance, be liquidated on the basis that it no longer employed three founding members, as required by law. School of Peace had allegedly been told by the Ministry of Justice in 1999 that it could continue working despite the fact that two of the founders had reportedly left the organization. It has been alleged that the decision from the regional Ministry of Justice to close down the organization may be related to its activity in favour of the rights of minorities, especially Meskhetian Turks in the region. In March 2003, School of Peace reportedly published a report on ethnic discrimination against children of Meskhetian origin. On 24 July 2002, the Vatan International Society of Meskhetian Turks, based in Abinsk, was allegedly closed down at the request of the regional Ministry of Justice for failing to comply with its charter. The closing down of the organization reportedly happened after the head of the organization, Sarvar Tedorov, allegedly sent a letter to the President of the Russian Federation in June 2002, requesting that urgent measures be taken to stop discrimination against Meskhetian Turks in Krasnodar Krai and to reaffirm their status as Russian citizens.

378. On 25 September 2003, the Special Representative transmitted an urgent appeal concerning the Memorial Saint Petersburg, a human rights organization, and its staff. On 14 August 2003, a man reportedly arrived at the Memorial office, allegedly looking for those in charge of the anti-fascist commission, who were reportedly not available. The man allegedly later returned with another man to see the Chairman of the organization. Both were allegedly masked and claimed to belong to the "Committee for the Defence of Budanov", a Russian colonel allegedly convicted of having abducted and murdered a young Chechen woman in 2000, and allegedly threatened members of the staff with hammers, tore off the telephone cable, and gagged and tied the hands of two employees and the chairman. They then reportedly locked them in the closet, claimed to have been booby-trapped, and seized the Chairman's laptop, mobile phone, diary and address book. The attack was allegedly investigated as an ordinary burglary, after the Press Section of the Department of Internal Affairs (MVD) reportedly declared it to be

such. Fears have been expressed that the attack may have been aimed at obtaining information on the activities of Memorial Saint Petersburg, as well as its members and contacts.

379. On 25 September 2003, 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 appeal regarding Soldiers' Mothers of Saint Petersburg, an organization that defends the rights of Russian soldiers. In mid- January 2003, 24 soldiers reportedly deserted the army and contacted Soldiers' Mothers, claiming they had been tortured. On 20 January 2003, the Military Prosecutor of the Leningrad military district allegedly addressed a letter to the Ministry of Justice of Saint Petersburg requesting an investigation to find out if the organization's activities corresponded to those set out in its registered status. The letter allegedly accused the organization of calumnies, of "propaganda for desertion", of monitoring the condition and procedure of the conscriptions and of distributing the results of their investigation. During the investigation, the Ministry of Justice chief of department on associations allegedly insisted on looking through the private files of soldiers defended by the organization. It is reported that on 23 June 2003, the organization was informed that its status was incompatible with its activities, of the changes to be made and advised as to the registration of its new status. On 26 July 2003, a new version of the status, reportedly following the recommendations, was allegedly presented to the Ministry of Justice. On 7 August 2003, registration was reportedly refused. On 11 September, three unknown men allegedly attacked the weekly picket line of Soldiers' Mothers in Saint Petersburg to protest against the war in Chechnya. A fourth person reportedly watched what was happening and spoke by a mobile phone. Concerns have been expressed that the reported events may have been aimed at preventing the organization from carrying out its human rights activities.

Communications received

380. By letter dated 17 April 2003, the Government transmitted a reply to the urgent action concerning **Arjan Erkel**. The Government indicated that it considered that the person subject of this appeal was not covered by the mandates of the special procedures which sent the communication. However, guided by a spirit of constructive cooperation, the Permanent Mission of the Russian Federation forwarded material on this case for information purposes.

381. By letter dated 2 October 2003, the Government transmitted a reply to the urgent action regarding **Bakhorm Mardonovich Khamroev**. The Government informed the Special Representative that search operations had been carried out by police officers of the Organized Crime Branch of the Main Internal Affairs Department of Moscow Oblast and the Federal Security Service Department of the city of Moscow, which found Bakhorm Mardonovich Khamroev to be in possession of heroin for which he was charged on 22 July under article 228(4) of the Criminal Code. He was at that time being held in Moscow penal correction facility.

382. By letter dated 26 November 2003, the Government replied to the communication sent regarding the Memorial Saint Petersburg. The Government informed the Special Representative that following an investigation by the Procurator's Office of the Central District of Saint Petersburg, a suspect had been detained in September and had been taken into custody. Investigations to identify the other perpetrators were still in progress.

383. In the same communication, the Government replied to the urgent action regarding the Soldiers' Mothers of Saint Petersburg. The Government informed the Special Representative that following an investigation by the military prosecutor, a criminal case file was opened on 5 January 2003 and on 26 June; the Saint Petersburg garrison military court found six officers guilty of abusing their authority and sentenced them accordingly. The Government also stated that between 21 March and 4 June 2003, the Central Administration of the Russian Ministry of Justice, which carries out routine checks on the activities of voluntary organizations to ensure that they are consistent with the objectives stated in their charters, discovered that the Soldiers Mothers of Saint Petersburg had infringed article 38 of the Federal Voluntary Organizations Act. On 24 June 2003, the Organization had submitted documents for State registration of amendments to the charter, which did not comply with the legal requirements. As a result, on 13 July 2003, the Central Administration disallowed these changes and to date, the Organization had not appealed this decision. The Government also informed the Special Representative that on 26 December, the Procurator's Office of the Central District of Saint Petersburg received a statement from a member of the Organization regarding the attack of 11 September 2003. The Procurator's Office decided not to open a criminal case file; however the Saint Petersburg Municipal Procurator's Office was examining the legitimacy of this decision.

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

384. By letter of 11 December 2002, the Government replied to the communication sent by the Special Representative in conjunction with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 27 September 2002 regarding **Said-Emin Saidarovitch Magaziev** and members of the Memorial Human Rights Centre (HRC). The Government confirmed that Said-Emin Saidarovitch Magaziev, head of Grozny office of HRC, had been abducted on 18 September 2002. It stated that at that time, investigations were being carried out to determine his whereabouts and the perpetrators of the offence. According to the Government, no evidence had been found which connected his abduction to the human rights activities of Lidia Yusupova, his aunt. The Government also confirmed that the offices of HRC had been raided by military personnel; however, it stated that their actions had been in keeping with the federal Terrorism Act, which gives those carrying out counter-terrorist operations the right to enter without hindrance into residential and other premises or areas belonging to citizens and organizations, regardless of their form of ownership. According to an investigation launched by the Government into the incident, illegally stored munitions had been discovered in a building in Grozny the previous day and for this reason, military personnel had been carrying out an operation in the area. The Government also stated that no official report and no substantial evidence had been submitted regarding the alleged surveillance of the offices of HRC. It further stated that no reports had been received from **A.S Petrosyan** or **Shamil Tangiev** regarding the routine checks carried out on their premises. Regarding the case of **Said-Husen Itzlaev**, brother of the head of the Urus-Martan representative office of HRC, the Government confirmed that physical force had been used against him while being detained and that criminal proceedings had thus been initiated on 26 September 2002 against unidentified militia personnel for overstepping their authority.

385. By letter of 31 January 2003, the Government replied to the communication sent by the Special Representative on 29 November 2002 regarding the alleged refusal to re-register a number of voluntary associations. The Government stated that all the voluntary associations

mentioned in the communication had in fact been re-registered apart from the following particular cases: The International Society of Meskhetian Turks has been closed down under a judicial order of the Abinsk District court on 24 July 2002 as it was discovered that it had systematically and unlawfully been seeking to obtain Russian citizenship for Meshketian Turks, an activity which was not consistent with the basic objectives outlined in its statutes. The regional voluntary organization Krasnodar Human Rights Centre had also breached the legislation on voluntary associations by failing to notify the Ministry of Justice that it had intended to continue its activities and to change its legal address. For this reason, its activities had been suspended for six months. Regarding the case of M. M. **Konstantinidi**, the Government stated that it had been decided on 18 December 2002 that the case against him would be retried. Regarding the refusal to issue Russian visas to foreign citizens and the deportation of a Polish citizen, the Government stated that this was an internal matter for the Russian Federation.

386. By letter of 13 March 2003, the Government replied to the communication sent by the Special Representative on 29 November 2002 regarding **Ruslan Kutaev**, co-chairman of the Russian-Chechen Friendship Society. The Government stated that criminal proceedings regarding the alleged break-in and theft had been initiated and that at the date of the communication, they were still in process.

Observations

387. The Special Representative thanks the Government for its numerous replies and expresses her hope that responses to the remaining communications will be forthcoming. She welcomes the release of **Bakhorm Mardonovich Khamroev** on 20 October 2003. She also welcomes the measures taken to investigate and ensure accountability in the Memorial and Soldiers cases. The Special Representative wishes to emphasize that she considers her mandate to cover all individuals or organizations, whether local or international, whose activities aim at ensuring respect for and enjoyment of internationally recognized human rights. The Special Representative wishes to express her growing concern over the restrictions on the freedom of association allegedly being imposed on NGOs, in particular those working on minority issues.

Saudi Arabia

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

388. By letter dated 29 October 2003, the Government responded to the communication sent by the Special Representative on 1 August 2002. The Government informed the Special Representative that **Sa'd bin Sa'id Zua'ir** had been arrested at King Khalid International Airport in Riyadh, while attempting to travel to Qatar and that three Kuwaiti passports had been found in his possession. The reasons for his arrest were therefore related to criminal activities. The Government also informed that the father of Sa'd bin Sa'id Zua'ir had been released.

Slovakia

Communications sent

389. On 11 April 2003, 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 complaint allegedly filed by the Slovak Republic's Office of Human Rights, Minorities and European Integration with the Prosecutor General against the authors of a joint report by the Centre for Reproductive Rights and the Centre for Civil and Human Rights in the Slovak Republic entitled "Body and Soul". According to our information, the joint report documents cases of forced sterilization of Roma women and discriminatory practices against this specific group. Our information indicates that following publication of the report, its authors were allegedly threatened with being charged, under section 199 of the Criminal Code, with "creating panic in society and damaging the good name of Slovakia" if the report's findings were found to be false and with failure to promptly inform the law enforcement authorities of the crime, if the findings were found to be true. During the reported investigation into the findings of the report, the authors were allegedly subjected to pressure to release the identities of the Roma women interviewed and were allegedly accused of obstructing justice when refusing to do so. In particular, it is reported that on March 12, the Ministry of Health allegedly issued a statement to this effect.

Communications received

390. By letter dated 24 November 2003, the Government replied to the communication sent by the Special Representative. The Government stated that upon the publication of the report, "Body and Soul", it immediately launched an investigation into the alleged unlawful sterilizations and a crime notification against an unknown perpetrator was lodged by the Director- General of the Section for Human Rights and Minorities on grounds of suspicion of involuntary and forced sterilization. An independent investigator of the Police Force was investigating the case at the time of the communication. Furthermore, on 3 March 2003 a special investigation team comprising representatives of the Ministry of Health and selected gynaecology and obstetrics experts was established. In June 2003, a report was submitted to the Committee for Human rights, National Minorities and the Status of Women with the results of their investigation, which concluded that no genocide or segregation of the Roma population had occurred, nor had any failure to observe medical indications for sterilization, as defined in the Sterilization Guidelines, been found in any of the hospitals. Some administrative errors had taken place for which measures against those responsible would be taken. The Government also informed the Special Representative that the authors of the report had not been subject to prosecution on the grounds of scaremongering and discrediting Slovakia as alleged. The Government stated that while the authors of the report had restricted the possibility of a thorough investigation of cases of alleged forced sterilization by refusing to disclose the identity of the Roma women victims, the Prosecutor- General had forbidden the team of investigators from taking any measures against the authors as they were exercising the right to freedom of expression, which could thus not be considered as a crime. The Government, however, added that it could not exclude that some of the hospitals mentioned in the report would file a crime notice against the authors for discrediting them. The Government further added that the authors had not been subjected to pressure by investigators and that their right to refuse to testify as witnesses in criminal proceedings had been respected. The Government further stated that NGOs development and operation were in no way suppressed in the Slovak Republic. On the contrary,

a dialogue between the authorities and civil society was established and in agreement with representatives of the NGO sector, a Council of the Government for Non-Governmental Organizations had been created to act as an advisory, initiating and coordinating body.

Observations

391. The Special Representative thanks the Government for its reply and welcomes the fact that no proceedings were undertaken against the authors of the report.

Sri Lanka

Communications sent

392. On 25 September 2003, the Special Representative, in conjunction with the Special Rapporteur on the question of torture, transmitted an urgent appeal regarding alleged threats against **W.A. Dhanapala Perera**, an astrologer from Kalutara District, who reportedly anonymously informed the police on several occasions by telephone of the identity of murderers of a student stabbed to death on 31 August 2002. On 15 September 2002, W.A. Dhanapala Perera reportedly received a phone call at his residence from a sub-inspector (SI) threatening him to mind his own business. On the same day, the SI and a sergeant, along with other police officers, allegedly came to his residence at Panadura and took him into custody at the Kalutara police station, where he was allegedly tortured. The names of the officers allegedly involved are known to the Special Rapporteur and Special Representative. The Supreme Court reportedly held that the fundamental rights of W.A. Dhanapala Perera had been violated by these officers, and reportedly ordered the perpetrators to pay compensation and costs. In addition, the court reportedly ordered that the Superintendent of Police and the Inspector General of Police (IGP) take appropriate action against these officers. Concerns have been expressed that the investigation into such a violation may not be pursued.

393. On 30 October the Special Representative in conjunction with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture sent an urgent appeal regarding **Chamila Bandara**, aged 17, and his family, whose case was included in an allegation letter sent by the Special Rapporteur on torture on 25 September 2003. According to new information received, Chamila Bandara's mother received death threats on 29 October 2003 from a group of police officers who intercepted her as she was going to the magistrate's court where her son's case is being heard. It is alleged that the policemen also threatened to kill Chamila Bandara who is said to be on his way to Geneva, Switzerland, in connection with the current proceedings of the United Nations Human Rights Committee and with the support of human rights non-governmental organizations. According to the information received, in July 2003, Chamila Bandara was strung up by his thumbs and beaten by officers of the Ankumbura police station, Kandy, resulting in a permanent disability. It is reported that since he filed a complaint of torture, he has been forced into hiding.

Communications received

394. By letter dated 1 December 2003, the Government replied to the urgent appeal sent by the Special Representative regarding the situation of **Chamila Bandara Jayaratna**. The Government informed the Special Representative that an investigation had been launched by the Special Investigation Unit (SIU) into the allegations made, which confirmed that the aforementioned person had suffered grievous injuries caused by a blunt weapon. On full completion of its investigation, SIU would forward its findings to the Department of the Attorney- General for further action. The Government also informed the Special Representative that another investigation was conducted by the Regional Office of the National Human Rights Commission in Kandy, where the incident had allegedly taken place. This investigation had found that the allegations were baseless. However, upon receiving representations on behalf of the alleged victim, the Chairperson of the Human Rights Commission had ordered a new inquiry, which was in progress at that moment.

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

395. By letter of 5 June 2003, the Government replied to a communication sent by the Special Representative on 4 October 2002 regarding threats received by **Nimal Punchihewa**, Project Director of the Human Rights Commission. The Government informed the Special Representative that SIU of the police launched an investigation into the incident and that the perpetrator had been summoned by the Chairman of the Human Rights Commission to explain his conduct. He received a severe warning and apologized for his conduct and no further action was deemed necessary.

Observations

396. The Special Representative thanks the Government for its response in the Chamila Bandara Jayaratna case. She welcomes the investigation undertaken by the authorities and invites the Government to keep her informed of the developments in this case. The Special Representative hopes to receive soon responses to the other communications she transmitted this year.

Sudan

Communications sent

397. On 23 January 2003, 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, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in the Sudan, transmitted an urgent appeal regarding **Donato Dimo Wol**, President of the Southern Sudanese Student Unions of Bahr Algalzal University, who was reportedly arrested at 10 p.m. on 15 January 2003 by members of the security forces. He is said to have been taken from his house in Alhaj Yousif, in Khartoum North. It is reported that he was taken to an unknown location. The security forces are reported to have accused Donato Dimo Wol of being one of the organizers of student demonstrations that took place in October 2002, which had been the object of a joint intervention on 29 October 2002 by the Special Rapporteur on the promotion and protection of

the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the situation of human rights in the Sudan, as well as the Chairperson-Rapporteur of the Working Group on Arbitrary Detention.

398. On 17 March 2003, the Special Representative, together with the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in the Sudan transmitted an urgent appeal regarding **Adam Abdel Hamid Adam**, a trainee advocate, who was reportedly arrested at 9 p.m. on 3 March 2003 by members of the security forces outside the Abdelmajeed Imam Cultural Centre in Khartoum North, an organization that carries out various cultural activities related to peace and human rights of which he is a member. The Centre's activities were reportedly suspended for some time last year and had reportedly been under surveillance by security forces in the past. According to the information received, Adam Abdel Hamid Adam was arrested along with journalist Mona Zahir Alsadati and taken to the offices of the National Security Agency near Farouk cemetery in Khartoum for interrogation. Mona Zahir Alsadati was reportedly released two hours later and asked to report to security offices the following day.

399. On 26 March 2003, the Special Representative, together with the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in the Sudan transmitted an urgent appeal regarding **Hussein Ibrahim Gindeel**, a 48-year-old human rights defender, who was reportedly arrested by four plain-clothes security officers on the road near his house in Damazin, Blue Nile Province in eastern Sudan on 24 March 2003. He is said to be currently held in incommunicado detention without charge. According to the information received, he is a senior official of the Ministry of Industry and works in his voluntary capacity as Executive Director of the Sudan Social Development Organization (SUDO), a voluntary organization created to promote sustainable development and human rights. On 26 and 27 March, SUDO was due to hold a workshop in Damazin on the role of civil society in the peace process. Permission for the workshop was reportedly initially granted by the security forces but was subsequently withdrawn, without an official explanation, on 24 March. Hussein Ibrahim Gindeel was allegedly arrested before he was due to lead the workshop. In view of the incommunicado nature of his detention, fears have been expressed that he may be at risk of torture and other forms of ill-treatment.

400. On 24 April 2003, the Special Representative transmitted an urgent appeal concerning the Sudanese Women Civil Society Network for Peace (SWCSNP), whose office has been reportedly shut down. On 26 March 2003, eight members of the security services allegedly entered the office of SWCSNP and spent two hours searching for documents and questioning several members of the organization. The members of the security services allegedly seized some documents, a video and diskettes and then reportedly ordered the office to be closed down without giving reasons for this measure. Prior to this incident, on 28 January 2003, 13 women from SWCSNP were allegedly prevented from travelling to Kenya to participate in a workshop organized by the African Peace Forum.

401. On 12 June 2003, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, transmitted an urgent appeal concerning **Tajulddin Banaga Mohammed Ahmed**, a witness reportedly testifying in a court case against

the internal security forces in the Sudan, who had allegedly received death threats from Sudanese security officers. According to the information received, he was at risk of being killed in order to prevent him from testifying in the trial of six security force members accused of killing Mr. Ali Ahmed Al Bashir, a friend and business partner of his. The trial was reported to have been repeatedly stalled, and members of Mr. Bashir's family were reportedly pressured to drop the case.

402. On 27 June 2003, the Special Representative, together with the Special Rapporteur on violence against women, its causes and consequences, transmitted an urgent appeal concerning allegations that five officers from the Sudanese National Security Agency (NSA) arrested 38 women from the Nuba Mountain Women's Association and three men who accompanied them on their way to a women's conference for peace and development. According to the information received, the NSA officers, armed with kalashnikov rifles and pistols, arrested the delegates in Kalakala and transported them to the NSA offices, where they were searched in an allegedly antagonistic manner, insulted verbally, and interrogated on their movements, the intentions of their trip and any relations they may have had with the Sudanese People's Liberation Movement. It is reported that eight conference delegates were then transported to the NSA offices in Omdurman where they were forced to sign a declaration promising that they would not leave Khartoum without the permission of NSA. A number of personal items were reportedly confiscated from the group, including mobile phones, computer equipment, documents and diaries containing private details of contacts, as well as a sum of approximately 8 million Sudanese pounds. The delegates were allegedly made to sit on the floor for an hour in the hot sun. The delegates were reportedly released on 2 and 3 June, but some were reportedly ordered to report back to NSA offices on a daily basis. Following this, the Ruayya Women's Organization in Al-'Awda, the initial meeting point for the delegation's trip, was reportedly closed down by NSA.

Communications received

403. By letter dated 12 June 2003, the Government replied to the communication sent by the Special Representative regarding the situation of **Tajulddin Banaga Mohamed Ahmed**. The Government informed the Special Representative that the aforementioned person had been apprehended on 13 January 2003 under article 26 of the Weapons and Ammunition Act for illegal possession of a revolver. While testifying as a witness in the murder case of Ali Ahmed Bashir, Mr. Tajulddin was arrested on injunction under the above article. Proceedings were brought against him and a sentence was handed down for a fine and the confiscation of the gun on 31 May 2003. As regards the case of Ali Ahmed El Bashir, the Government confirmed that the proceedings in the case were being carried out according to law and that 10 lawyers were currently representing the family of the victim without any restrictions or constraints.

Observations

404. The Special Representative thanks the Governments for its response in the **Tajulddin Banaga Mohamed Ahmed** case. She regrets the absence of responses to her other communications sent this year. She remains concerned about the reported restrictions imposed on the rights to freedom of assembly, freedom of speech and freedom of movement of human

rights defenders, in particular peace activists. She is deeply concerned at the reported practice of illegally detaining defenders to obstruct their human rights activities.

Switzerland

Communications envoyées

405. Le 19 juin 2003, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la question de la torture, a adressé au Gouvernement un appel urgent concernant **Abdelmumen Mohamed Elzidani**, qui aurait déposé une demande d'asile le 13 novembre 2000. Cette demande aurait été refusée le 4 décembre 2002. Selon cette décision, l'argumentation de sa demande d'asile, reposant sur le fait qu'il aurait hébergé des opposants politiques en juin et août 2000, serait invraisemblable. Il aurait été arrêté le 17 juin 2003, conduit à la prison des îles à Sion, et puis détenu à l'aéroport de Zurich dans l'attente d'être renvoyé en Jamahiriya arabe libyenne. Son avocat n'aurait pas été informé du lieu exact de sa détention. Abdelmumen Mohamed Elzidani serait membre d'une organisation libyenne de défense des droits de l'homme, Human Rights Solidarity, qui aurait par le passé dénoncé les violations des droits de l'homme en Jamahiriya arabe libyenne. À cause de ces faits, et en raison de nombreux rapports sur le sort des demandeurs d'asile renvoyés en Jamahiriya arabe libyenne, des craintes ont été exprimées quant au fait qu'Abdelmumen Mohamed Elzidani risquait d'être soumis à des tortures et autres mauvais traitements s'il était renvoyé de force dans son pays d'origine.

Communications reçues

406. Par lettre datée du 16 juillet 2003, le Gouvernement a informé la Représentante spéciale que l'Office fédéral des réfugiés (ODR) avait rejeté, par décision du 4 décembre 2002, la demande d'asile déposée par M. Elzidani et ordonné dans le même temps son renvoi en Jamahiriya arabe libyenne. La demande de réexamen urgente interjetée vingt heures avant son départ a également été rejetée à la suite d'un nouvel examen minutieux de son dossier. L'ODR a immédiatement envoyé les pièces sur lesquelles se fondait sa décision à la Commission suisse de recours en matière d'asile dans l'éventualité d'un recours. Aucun recours n'a toutefois été déposé. Le 19 juin 2003, M. Elzidani est retourné en Jamahiriya arabe libyenne muni de son passeport libyen et non accompagné. Le Gouvernement a également invité la Représentante spéciale à prendre directement contact avec l'ODR pour de plus amples renseignements.

Observations

407. La Représentante spéciale remercie le Gouvernement pour sa prompte réponse.

Syrian Arab Republic

Communications sent

408. On 19 December 2002, the Special Representative sent an urgent appeal regarding the situation of **Hassan Saleh** and **Marwan 'Uthman**, leading members of the Syrian Kurdish

Democratic Unity Party. According to the information received, on 10 December 2002, the Syrian Kurdish Democratic Unity Party held a peaceful demonstration with some 200 participants before the National Assembly in Damascus. According to the information received, in the framework of this demonstration, **Hassan Saleh and Marwan 'Uthman** were among those who presented a memorandum from the Syrian Kurdish Democratic Unity Party to the President of the National Assembly, Abdul Qadir Qadurah. The memorandum reportedly demanded greater protection for the rights of people of Kurdish origin living in Syria. The following day members of the Syrian security forces reportedly searched both men's houses in Qamishli and 'Ayn al-Arab in northern Syria. Hassan Saleh's son, Siamant Saleh, and Marwan 'Uthman's brother, Ahmad 'Uthman, were reportedly taken from their houses and interrogated by members of the Syrian security forces. They were released five hours later. On 15 December, Hassan Saleh and Marwan Uthman were reportedly detained in Damascus following an invitation for a meeting by the Minister of the Interior, Major-General 'Ali Hammud. In view of the incommunicado nature of their detention, fears have been expressed that they might be at risk of torture or other forms of ill-treatment.

409. On 16 April 2003, the Special Representative, together with the Special Rapporteur on the question of torture, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the situation of human rights in the Sudan, transmitted a follow-up urgent appeal regarding **Hassan Saleh and Marwan 'Uthman**. According to new information received, both men have been transferred from the Criminal Section to the Political Section of Adra Prison, north of Damascus, where they are allegedly held in solitary confinement. They have allegedly been denied visits by lawyers, relatives and doctors. Furthermore, concerns have been expressed about Hassan Saleh's health, who is reportedly suffering from chest pains and being denied medical treatment. According to the information received, the Military Court has changed the charge against both prisoners from "membership of an unauthorized organization" to "inciting sectarian strife" and referred the case to the Supreme State Security Court (SSSC), which added the charge of "attempting to sever a part of the Syrian territories". It is reported that in June 2002, SSSC indefinitely banned the defendants' lawyer Anwar al-Bunni from acting as defence counsel before SSSC. Other lawyers are now said to be following the case and will represent Hassan Saleh and Marwan 'Uthman when they are brought before SSSC. Of concern is that SSSC operates outside the ordinary criminal justice system, as it is only accountable to the Ministry of the Interior. In addition, its verdicts are not subject to appeal and its trials are not conducted in accordance with the Code of Criminal Procedure.

Communications received

410. By letter dated 22 May 2003, the Government responded to the communication sent by the Special Representative on 19 December 2002 regarding **Hassan Salih and Marwan Uthman**. The Government stated that the two men had incited acts of violence and unrest and distributed items of literature criticizing national policy in breach of the provisions of Act No. 2, the Associations Act No. 47 of 1953 and Act. No. 93 of 1998. They are being tried before the courts.

Observations

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

Thailand

Communications sent

412. On 26 December 2002, the Special Representative sent an urgent appeal regarding the situation of six members of the Mon Youth Progressive Organization (MYPO), a Burmese student group based in Thailand and working to support the rights of Burmese ethnic minorities, who were arrested in Thailand and sent across the Thai-Burmese border on 20 December 2002. In addition, according to the information received, the Commander of the Ninth Division of the army led a group of soldiers who delivered orders to offices of the Democratic Party for a New Society, the All Burma Student's Democratic Front, the People's Democratic Front, as well as MYPO, in Sangkhala Buri on 20 December, indicating that members of these organizations and their families should move out of Thailand within two days or be arrested and deported. These orders were allegedly given in relation to the activities of these groups and their members in support of democratization and the rights of ethnic minorities in Burma.

413. On 7 March 2003, 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 death threats against **Dr. Pradit Chareonthaitawee**, a National Human Rights Commissioner. According to the information received, Dr. Pradit Chareonthaitawee has received numerous anonymous telephone calls to his home in the past days threatening him with death. In at least one call Dr. Pradit Chareonthaitawee was reportedly told to stop talking to the United Nations or he would die. Some of these threats reportedly suggested that a bomb would be placed under his car, while others made references suggesting that mephamphetamine drugs would be placed among his belongings to give the false impression that he was dealing in drugs. Dr. Pradit Chareonthaitawee is currently concerned about his own safety as well as that of his family. The Special Representative also received information indicating that efforts may be under way to impeach Dr. Pradit Chareonthaitawee. According to our information, the alleged death threats and references to impeachment of Dr. Pradit Chareonthaitawee occurred following his statements to the United Nations about alleged human rights abuses in Thailand, in the context of efforts by the authorities to end the trade in illegal drugs, and press reports quoting some reported criticisms by him levelled at the Royal Government of Thailand.

414. On 14 October 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 appeal regarding information received that the Royal Government of Thailand had publicly stated that any public protests in the context of the upcoming Asia-Pacific Economic Cooperation (APEC) summit in Bangkok on 20 and 21 October 2003 would lead to repercussions against the organizations involved. According to the information received, the Government allegedly indicated that protesting organizations would be prevented from receiving government funds from poverty eradication programmes in the future, threatened to "blacklist" any non-governmental organization taking part in public protests and indicated that lists of NGOs had already been drawn up by the police to monitor their activities. The information received further indicated that the Government had reportedly ordered that visas be denied to

foreign activists who might be expected to organize protests during the APEC summit. Concern was expressed that should such information be correct, the maintaining of lists of defenders, monitoring by the police and the denial of visas as a means of preventing people from expressing concern on human rights issues would represent violations of or restrictions on the right to freedom of expression and the rights defined in the Declaration on human rights defenders. While the information indicated that the Government cited security precautions as justification for these restrictions, the Special Representative noted that peaceful protests cannot be portrayed as a security threat and urged that, if the allegations represented above were true, the Government make every effort to retract statements against potential protesters and to urgently ensure, in time for the APEC summit, protection of the right to freedom of expression and related rights set forth in the Declaration on human rights defenders, within the limit of the Government's requirements to assure the security of participants in the summit.

Communications received

415. By letter dated 14 May 2003, the Government responded to the urgent appeal sent on 7 March 2003 regarding **Dr. Pradit Charoenthaitawee**. The Government informed the Special Representative that upon reception of the appeal, a thorough investigation had been ordered in to the alleged death threats. The Government assured the Special Representative that safeguards existed under the law to ensure the right to life of every individual under its jurisdiction, including clear guidelines for police officers outlining procedures to protect an individual against a threat to life, as well as two committees appointed by the Prime Minister to monitor the implementation of the Government's policy on anti-narcotic cases. The Government assured the Special Representative that had the police authorities been notified about the alleged death threats, Dr. Pradit Chareonthaitawee would have been entitled by law to request such protection. The Government further reaffirmed that should he feel special protection was required, this would promptly be provided on his lodging a complaint with the Thai Police regarding the threat to his life. The Government confirmed that he was entitled to his right to freedom of expression and opinion. Concerning the potentiality of impeachment, the Government stated that such power rested solely with the House of Representatives and the Senate and that it thus could not interfere with the work of the National Commission on Human Rights.

416. By letter dated 29 August 2003, the Government responded to the urgent appeal sent by the Special Representative on 26 December 2002 regarding members of the **Mon Youth Progressive Organisation**. The Government informed the Special Representative that a thorough investigation had been conducted by the authorities, which found that there had been no arrest or deportation of Myanmar national belonging to the aforementioned group as alleged.

417. By letter dated 10 December 2003, the Government responded to the urgent appeal sent by the Special Representative on 14 October 2003. The Government informed the Special Representative that there had been no ban on organizing demonstrations during the APEC summit in Bangkok (20 and 21 October 2003). The Government stated that as a security precautionary measure, the authorities had arranged designated locations where protestors could hold demonstrations and that 1000 demonstrators, including approximately 10 non-governmental organizations and several members of the Senate, had participated in a rally on 19 October 2003. While police had been on hand to provide security, neither they nor the authorities had in any

way obstructed the rally but had urged the demonstrators to express their opinions in a peaceful manner. It further informed that the rule of law had been strictly observed. Regarding the blacklisting and the denial of visas to foreign activists, the Government stated that, like other sovereign States, it reserved its right to grant or deny entry into its territory and in doing so had taken due account of existing immigration laws and the need to maintain public order and national sovereignty.

Observations

418. The Special Representative thanks the Royal Government of Thailand for its prompt responses to all of the communications sent. She notes that in May 2003, at the invitation of the Government, she conducted an official visit to Thailand. The Special Representative thanks the Government for its commendable transparency and very good collaboration in the preparation and conduct of her mission, providing her with her first opportunity to conduct an official visit to Asia. She draws attention to her report and the recommendations made following this visit.

Togo

Communications envoyées

419. Le 25 juin 2003, la Représentante spéciale a envoyé un appel urgent, 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 la question de la torture et le Président-Rapporteur du Groupe de travail sur la détention arbitraire, concernant **Colombo Kpakpabia**, journaliste à l'hebdomadaire *Nouvel Echo*, **Dimas Dzikodo**, éditeur en chef du journal *L'Événement* et **Philippe Evegno**, directeur de publications du même journal. Colombo Kpakpabia aurait été arrêté le 14 ou 15 juin 2003 et détenu à la Direction générale de la police à Lomé, sans aucune explication sur les raisons sa détention, qui par ailleurs n'aurait été ni confirmée, ni niée. Dimas Dzikodo aurait été arrêté dans un cybercafé par des forces de sécurité le 14 juin 2003, alors qu'il scannait des photographies de personnes qui auraient été blessées par les forces de sécurité lors des élections présidentielles du 1^{er} juin 2003. Son directeur, Philippe Evegno, aurait été arrêté le jour suivant. Les deux hommes auraient été accusés de diffuser de fausses informations et de provoquer le désordre public. Ils auraient été tenus au secret pendant quatre jours. Le 19 juin, les deux journalistes auraient participé à une conférence de presse organisée par les autorités togolaises, qui les auraient accusés de vouloir envoyer les photographies et ainsi ternir l'image du pays. Les autorités auraient en outre affirmé que les photos représentaient des personnes blessées lors d'accidents de la circulation. Pendant la conférence de presse, Dimas Dzikodo aurait présenté des signes de faiblesse et se serait plaint de mauvais traitements supposément reçus pendant sa détention au secret.

Observations

420. La Représentante spéciale regrette qu'au moment de la finalisation de son rapport aucune réponse n'ait été reçue de la part du gouvernement.

Tunisia

Communications envoyées

421. Par une lettre en date du 30 décembre 2002, la Représentante spéciale, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats et Rapporteur spécial sur la question de la torture, a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels **Mokhtar Yahiaoui**, juge, président du Centre tunisien pour l'indépendance de la justice (CTIJ) et membre du comité de liaison de l'Association internationale de solidarité avec les prisonniers politiques (AISPP), aurait été agressé et enlevé par des agents de police en civil le 11 décembre 2002, alors qu'il se rendait chez son avocat à Tunis. Il aurait été hospitalisé suite à cette agression. Par ailleurs, le cabinet de **M^e Bhiri**, son avocat et membre du bureau exécutif du CTIJ, et celui de sa femme, **M^e Akermi**, secrétaire générale de l'AISPP, auraient été encerclés par un important dispositif policier le 13 décembre 2002. A cette occasion, les deux avocats auraient été agressés par des agents de police, et **leur enfant de 13 ans**, frappé au visage. **Lassad Jouhri**, membre fondateur de l'AISPP, présent au moment des faits, aurait été frappé et hospitalisé. Plusieurs avocats, dont **M^{es} Abderraouf Ayadi, Sihem Rostom, Néjib Ben Youssef, Mokhtar Tritfi, Mohamed Goumani et Youssef Rezui** auraient par la suite également agressés ou autrement empêchés d'accéder au cabinet de leurs confrères, **M^{es} Bhiri et Akermi**. En outre, **M^e Samir Dillou**, membre fondateur de l'AISPP, aurait été arrêté à son cabinet le 13 décembre 2002 et interrogé pendant plusieurs heures. Il aurait reçu un coup à la tête qui lui aurait fait perdre connaissance. Finalement, il était allégué qu'un certain nombre de personnes, dont **Abdallah Zouari et M^e Said Mechichi** auraient été empêchées de participer à la célébration du 54^{ème} anniversaire de la Déclaration universelle des droits de l'homme, organisée par la Ligue tunisienne des droits de l'homme (LTDH) durant la soirée du 13 décembre 2002.

422. Le 14 avril 2003, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la question de la torture, a envoyé un appel urgent sur la situation de **Zouhair Yahyaoui**, fondateur et animateur du site TUNeZINE consacré aux libertés fondamentales en Tunisie, et au sujet duquel un appel urgent conjoint avait été envoyé le 6 juin 2002 par la Représentante spéciale, le Rapporteur spécial sur la question de la torture, le Rapporteur spécial pour la promotion et protection du droit à la liberté d'opinion et d'expression et le Président-Rapporteur du Groupe de travail sur la détention arbitraire. Le Gouvernement a répondu à cet appel urgent par une lettre datée du 22 août 2002, dont un résumé apparaît dans des rapports des procédures spéciales susmentionnées. Selon les renseignements reçus, Zouhair Yahyaoui aurait entamé une grève de la faim depuis plusieurs jours et n'arriverait plus à se déplacer de manière autonome. Il aurait déjà été en grève de la faim pendant deux semaines en janvier 2003 pour protester contre ses conditions de détention. Son état de santé se serait récemment détérioré de manière alarmante. En outre, les persécutions et les mesures punitives dont il ferait l'objet se seraient multipliées, notamment depuis le rassemblement de solidarité organisé devant la prison de Borj El Amri le 6 février 2003. La nourriture que lui enverrait sa famille serait régulièrement détournée et celle qui lui parviendrait serait délibérément souillée par les gardiens. Toute lecture lui serait interdite, sa correspondance serait confisquée et sa promenade quotidienne supprimée. Il aurait par ailleurs été mis au cachot avec privation totale de nourriture pendant deux jours à la suite des protestations de sa famille concernant les conditions de visite. Sa famille serait sans nouvelles de lui depuis une semaine, et s'inquiéterait de son état de santé, jugé très critique lors de leur dernière visite.

423. Le 22 juillet 2003, la Représentante spéciale a envoyé un appel urgent conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur l'indépendance des juges et des avocats sur les nouvelles atteintes présumées portées à la liberté de réunion en Tunisie, ainsi que sur l'agression dont aurait fait l'objet **Me Radhia Nasraoui**, avocate et présidente de l'Association de lutte contre la torture en Tunisie (ALTT). Selon les informations reçues, un groupe de supposés policiers en civil se seraient déployés dimanche 13 juillet 2003, afin d'empêcher la tenue d'une réception organisée par la Ligue tunisienne des écrivains libres. Les policiers auraient fait barrage dans une rue à 20 mètres environ du domicile de M. **Jalloul Azzouna**, où devait avoir lieu la réception. Arrivés peu après, Me Nasraoui et M. Azzouna auraient réussi à passer le barrage. Mais lors que M^e Nasraoui serait descendue de sa voiture, les hommes en civil l'auraient poussée contre un mur puis violemment frappée. M. Azzouna, qui aurait tenté de la défendre, aurait été malmené dans la bousculade qui s'en serait suivie. M^e Nasraoui, qui souffrirait de contusions aux bras, serait en arrêt de travail pour une durée de six jours et aurait décidé de porter plainte. Des craintes ont été exprimées que cette attaque ne soit une réponse à la création, par M^e Nasraoui, de l'**Association de lutte contre la torture** en Tunisie, dont l'enregistrement aurait été refusé le 26 juin dernier.

424. Le 23 juillet 2003, 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 situation de M^e **Mohamed Nouri**, président de l'Association internationale de soutien aux prisonniers politiques (AISPP) en Tunisie. Le 18 juillet 2003, à son retour de l'étranger, la maison de M^e Nouri, dans la région de Soliman, aurait été encerclée par un vaste dispositif de police. M^e Nouri y aurait été enfermé durant tout l'après-midi, sans que personne ne puisse le joindre, pas même sa famille proche. Son téléphone portable aurait été bloqué pendant plusieurs heures. Des craintes ont été exprimées que ces événements ne soient liés à la visite récente de M^e Nouri en Suisse, du 9 au 16 juillet 2003, dans le cadre de la campagne actuelle menée par l'AISPP pour une amnistie générale des prisonniers politiques, durant laquelle il aurait établi des contacts avec des organisations internationales de défense des droits de l'homme.

425. Le 17 septembre 2003, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la question de la torture, a envoyé une lettre d'allégation sur les cas suivants.

426. **Saida Akremi**, avocate spécialisée dans la défense des droits humains et membre d'organisations de défense des droits humains, notamment de l'Association internationale de soutien aux prisonniers politiques (AISPP), aurait été forcée à sortir de sa voiture et battue par des membres des forces de sécurité devant l'entrée de son cabinet, en présence de sa famille, le 13 décembre 2002. Elle aurait été emmenée au Ministère de l'intérieur et interrogée pendant plusieurs heures au sujet de ses activités de l'AISPP. Ce ne serait pas la première fois qu'elle aurait été victime d'intimidations portant sur son travail de défenseuse des droits de l'homme. Son cabinet serait sous surveillance policière constante, les forces de sécurité interrogeraient régulièrement ses clients, auxquels ils conseilleraient de choisir d'autres avocats. En juin 2002, son cabinet, ainsi que celui de son mari, auraient été saccagés. Le 27 juillet 2001, une voiture de police aurait tenté de la renverser pendant une manifestation de protestation contre l'incarcération de Sihem Ben Sedrine, une autre défenseuse des droits humains. Elle aurait déposé une plainte pour tentative de meurtre, mais aucune enquête ne semblerait avoir été effectuée.

427. Le 1^{er} mars 2001, **Khedija Cherif**, membre fondateur du Conseil national pour les libertés en Tunisie (CNLT) et de l'Association tunisienne des femmes démocrates (ATFD), aurait été interceptée par des agents de police en civil alors qu'elle se rendait à une réunion de la CNLT. Ceux-ci l'auraient informée qu'elle n'était pas autorisée à participer à la ladite réunion et l'aurait insultée, giflée et frappée lorsqu'elle aurait protesté contre cette interdiction. Le 10 mars 2001, alors qu'elle venait de quitter le palais de justice, elle aurait été bousculée dans les escaliers et traînée au sol. La documentation qu'elle portait sur elle aurait été confisquée.

428. **Souhayr Belhassen**, vice-présidente de la Ligue tunisienne des droits de l'homme, aurait été agressée par des agents de police de Tunis le 14 avril 2001, à son retour de Genève, où elle aurait participé à la session de la Commission des droits de l'homme des Nations Unies et où elle aurait eu des entretiens avec des représentants de l'Union européenne. A sa sortie de l'aéroport de Tunis, deux agents de police habillés en civil l'auraient insultée et violemment attaquée et auraient confisqué ces documents, qui ne lui n'ont jamais été restitués depuis. Elle aurait tenté de porter plainte mais la police n'aurait pas accepté de prendre en compte sa déposition.

429. Le 10 octobre 2003, la Représentante spéciale a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, concernant la convocation supposée de **Néziha Rejiba**, journaliste connue sous le nom de plume **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. Selon les informations reçues, le 25 septembre 2003, Néziha Rejiba aurait été convoquée par le bureau des infractions de change de la Direction des enquêtes douanières, supposément pour avoir donné 170 euros 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. Néziha Rejiba aurait également été agressée à plusieurs reprises depuis 2000 par des membres des forces de l'ordre, notamment à la sortie de réunions du Conseil national pour les libertés en Tunisie, et en particulier le 1^{er} mars 2001, lors d'une réception organisée par le CNLT qui aurait été violemment empêchée par un déploiement de forces de police. Son courrier serait contrôlé et parfois confisqué et sa ligne téléphonique serait sous écoute permanente et souvent coupée. Le journal en ligne auquel elle participe, *Kalima*, aurait été interdit en Tunisie, bien qu'il soit accessible depuis l'étranger.

430. Le 13 octobre 2003, 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 sur les cas suivants.

431. **Abdallah Zouari**, journaliste qui travaillerait pour les droits des prisonniers et des détenus islamistes, condamné pour « appartenance à une organisation illégale », aurait passé onze années de prison et à sa libération en juin 2002, le Ministère de l'intérieur lui aurait notifié une mesure administrative d'éloignement à Zarzis, loin de sa famille, pour une durée de cinq ans. En septembre 2002, M. Zouari aurait été condamné à huit mois de prison pour avoir violé cette mesure d'éloignement, et il aurait été libéré deux mois plus tard pour « raisons humanitaires ». Le 18 juillet 2003, M. Zouari aurait été condamné à quatre mois de prison par le tribunal cantonal de Zarzis à la suite d'une plainte d'une gérante d'un cybercafé, qui lui aurait

refusé l'autorisation de naviguer sur Internet. M. Zouari aurait voulu téléphoner à son avocat et porter plainte pour ce refus, mais la gérante du cybercafé aurait porté plainte pour diffamation. M. Zouari aurait fait appel de cette condamnation. M. Zouari aurait été arrêté le 17 août 2003 à Ben Guerdane, près de Zarzis, et accusé « d'infraction à une mesure de contrôle administratif à laquelle il était soumis ». Il aurait été condamné le 29 août à neuf mois de prison ferme. Il semblerait que son arrestation soit intervenue après que M. Zouari a accompagné une mission d'enquête de l'organisation de défense des droits de l'homme Human Rights Watch dans le sud de la Tunisie.

432. Le 6 février 2003, les forces de l'ordre auraient dispersé un rassemblement d'environ cinquante personnes organisé par la Ligue tunisienne des droits de l'homme et le Comité national pour le soutien de Zouhair Yahyaoui - au sujet duquel deux appels urgents avaient été envoyés le 14 avril dernier par la Représentante Spéciale et le Rapporteur spécial sur la question de la torture, et le 6 juin 2002 par 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 Président-Rapporteur du Groupe de travail sur la détention arbitraire et le Rapporteur spécial sur la question de la torture - devant la prison de Borj El Amri où M. Yahyaoui, fondateur et animateur du site Web TUNeZINE, serait détenu. **Mme Sihem Ben Sédrine** et **M. Abderraouf Ayadi**, respectivement porte-parole et secrétaire général du Conseil national pour les libertés en Tunisie (CNLT), **M. Omar Mestiri**, membre du bureau politique du Forum démocratique pour le travail et les libertés et **M. Marc Thorner** de la radio allemande WDR, auraient été emmenés au poste de police de Bojr El Amri où ils auraient été soumis à des fouilles. L'appareil d'enregistrement de M. Thorner aurait été confisqué et d'autres participants auraient fait l'objet de filature à leur retour sur la route Borj El Amri-Tunis.

433. Le 22 octobre 2003, la Représentante spéciale a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, concernant le licenciement et passage à tabac de **Mokhtar Yahiaoui**, juge et résident du Centre de Tunis pour l'indépendance de la justice (CIJ) et membre fondateur de l'Association internationale de soutien aux prisonniers politiques (AISPP) au sujet duquel un appel urgent avait été envoyé le 8 avril 2002. Selon les informations reçues, le 29 décembre 2001, Mokhtar Yahiaoui aurait été licencié de son poste de juge après avoir demandé le respect de l'indépendance des juges dans une lettre ouverte au Président. Le 10 décembre 2002, lors de la Journée internationale des droits de l'homme, l'AISPP aurait publié un appel, signé par Mokhtar Yahiaoui, demandant le respect des droits des prisonniers politiques et la fin de leur détention au secret. Le lendemain, Mokhtar Yahiaoui aurait été attaqué et battu alors qu'il se rendait à une réunion avec des avocats des droits humains dans le centre de Tunis.

434. Le 19 novembre 2003, la Représentante spéciale a envoyé un appel urgent concernant la situation de **Radhia Nasraoui**, avocate et présidente de l'Association de lutte contre la torture en Tunisie (ALTT), qui avait déjà été l'objet d'un appel urgent envoyé le 22 juillet 2003 par la Représentante spéciale, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur l'indépendance des juges et des avocats, au sujet d'une supposée agression survenue le 13 juillet 2003 à son encontre. Selon les informations reçues, le 6 septembre 2003, alors qu'elle rentrait d'une conférence internationale en Turquie, les douaniers à l'aéroport en Tunisie lui auraient confisqué une vingtaine de livres et de brochures. Ils auraient également essayé de confisquer certains de ses dossiers de clients. Le

17 septembre 2003, à son retour de la conférence bisannuelle sur les défenseurs des droits de l'homme organisée à Dublin par Frontline, une ONG des droits de l'homme irlandaise, et à laquelle assistait également la Représentante spéciale, elle aurait été détenue à l'aéroport par la police pendant deux heures, et ses dossiers auraient été parcourus. La police aurait de nouveau essayé de prendre certains des dossiers de ses clients, mais se serait ravisée suite à ses vives protestations. A la suite de ces événements, le 15 octobre 2003, Radhia Nasraoui aurait entamé une grève de la faim, pour protester contre les pressions supposément exercées sur ses clients les incitant à ne pas recourir à ses conseils et contre sa supposée surveillance constante par la police depuis 2002. Le 14 novembre 2003, suite à la détérioration de son état de santé, elle aurait été transférée à la Clinique Taoufik et traitée pour des problèmes de cœur. Au cours de son séjour à l'hôpital, elle aurait été sous la surveillance de policiers en civil. Le 15 novembre 2003, une des personnes supposément responsable de son agression du 13 juillet 2003 aurait été vue par son mari dans le hall de l'hôpital. Mme Nasraoui aurait quitté l'hôpital le 17 novembre 2003 mais serait toujours en grève de la faim.

435. Le 5 décembre 2003, la Représentante spéciale a envoyé un appel urgent concernant la situation de la **Ligue tunisienne des droits de l'homme (LTDH)**. Selon les informations reçues, le 29 août 2003, le président de la LTDH, Mokhtar Trifi aurait été convoqué par le Directeur des affaires politiques du Ministère de l'intérieur qui lui aurait notifié l'interdiction faite par le Gouvernement tunisien à son organisation, de recevoir des financements de la Commission européenne, en se fondant sur la loi 154 du 7 novembre 1959 et sur un décret du 8 mai 1922. Le 12 septembre 2003, la banque où serait domicilié le compte de la LTDH, aurait également informé l'organisation de l'impossibilité d'effectuer la seconde tranche du virement prévu par le contrat liant la LTDH à la Commission européenne faute d'autorisations requises. Des craintes ont été exprimées que l'interdiction faite à la LTDH de recevoir des fonds de la Commission européenne ne vise à forcer cette dernière à mettre un terme à ses activités de défense des droits de l'homme en Tunisie.

Communications reçues

436. Par lettre datée du 2 janvier 2003, le Gouvernement a répondu à une communication concernant Mokhtar Yahiaoui informant la Représentante spéciale que ce dernier avait effectivement été empêché de se rendre à Genève le 4 avril 2002 car il n'avait pas pris soin de faire renouveler son passeport comme cela lui avait été demandé par les services compétents, dans la mesure où la profession de « juge » mentionnée sur ce document ne correspondait plus à son statut depuis sa révocation par le Conseil supérieur de la magistrature le 29 décembre 2001. Le recours à cette décision intenté par l'intéressé n'ayant pas d'effet suspensif, elle était demeurée exécutoire.

437. Par une lettre datée du 28 juillet 2003, le Gouvernement a répondu à une communication envoyée par la Représentante spéciale le 30 décembre 2002 l'informant qu'aucune plainte n'avait été déposée quant à la supposée agression de **Mokhtar Yahiaoui**. Celui-ci aurait reconnu que l'investigation dont il faisait l'objet suite à sa participation à une réunion non autorisée était « un dialogue plus qu'un interrogatoire ». Concernant **Maîtres Bhiri et Akremi**, leur enfant, Lassad Jouhri, et M^e Samir Dillou, le Gouvernement a indiqué que les allégations d'agression étaient sans fondement. Il n'y avait pas eu de plainte de la part des personnes supposément agressées ni de la part de possibles témoins oculaires. Par ailleurs, s'il est vrai qu'une plainte

avait été déposée le 26 décembre 2002 par un avocat au nom de plusieurs de ses confrères, le Gouvernement a informé que M^c **Souilhi** aurait nié, dans sa plainte déposée le 20 janvier 2003, avoir été agressé et avoir chargé qui que ce soit de déposer une plainte en son nom. Le Gouvernement a également précisé que le CTIJ et l' AISPP n'avaient pas d'existence légale en Tunisie. Quant à la célébration organisée par la LTDH le 13 décembre 2002, le Gouvernement a répondu que cette organisation était sous le coup d'une décision judiciaire et n'avait pas le droit d'entreprendre des initiatives de cette nature. Aucune plainte portant sur de l'harcèlement ou des agressions n'avait été déposée **par Mokhtar Trifi**, président de la LTDH. Finalement, concernant **Abdallah Zouari**, le Gouvernement a informé qu'il était sous le coup d'une décision judiciaire de contrôle administratif qui avait fixé son lieu de résidence à Zarzis.

438. Par une lettre datée du 30 janvier 2004, le Gouvernement tunisien a envoyé une réponse à la communication concernant **Zouhait Yahoui** envoyée par la Représentante spéciale le 10 avril 2003, l'informant que l'intéressé avait bénéficié d'une libération conditionnelle le 18 novembre 2003, après avoir purgé la moitié de sa peine selon les conditions réglementant l'exécution des peines. Le Gouvernement a également informé la Représentante spéciale qu'à la suite d'une enquête judiciaire qui avait révélé la mise en ligne de fausses nouvelles à partir d'un cybercafé dont l'intéressé était le gérant, celui-ci avait fait l'objet d'une plainte pour vol de la part des propriétaires pour utilisation frauduleuse des lignes téléphoniques. Dans sa réponse, le Gouvernement a ajouté qu'il avait propagé de fausses informations de nature à troubler l'ordre public, révélant en particulier l'incursion d'un commando étranger dans le territoire tunisien et émettant des appels au boycott du tourisme et des produits tunisiens. M. Yahoui a été condamné le 20 juin 2002 à une peine d'un an et quatre mois de prison pour vol et utilisation frauduleuse des lignes téléphoniques et à un an de prison pour propagation de fausses nouvelles de nature à troubler l'ordre public. En appel, sa première peine aurait été réduite à un an. Le pourvoi en cassation aurait été rejeté. Le Gouvernement a également précisé que la détention de M. Yahoui s'est déroulée dans des conditions conformes à la législation tunisienne et en adéquation avec les normes internationales. Le Gouvernement souligne par ailleurs que le site Web en question fonctionnait librement depuis plusieurs années mais en l'espèce, avait été mis à profit pour propager de fausses nouvelles de natures à troubler la sécurité publique. Le Gouvernement a également souligné que les textes internationaux prohibent l'exercice du droit à la liberté d'expression dès lors que celui-ci a pour dessein d'inciter au crime ou à la haine raciale, ou de faire usage de violence ou menaces en violation de la loi, la sécurité nationale, la sécurité publique ou l'ordre public.

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

439. Par une lettre datée du 17 juillet 2003, le Gouvernement a répondu que **Sadri Khiari** était impliqué dans deux affaires criminelles pour diffamation des autorités et diffusion de fausses nouvelles. Une décision judiciaire lui a interdit de quitter le territoire sur la base de l'article 15 de la loi du 14 mai 1975 qui autorise le retrait du passeport sur ordonnance d'un juge d'instruction. L'intéressé n'a d'après le Gouvernement pas fait appel de cette décision qui a été révoquée le 8 janvier 2003. En ce qui concerne Philippe Corcuff, le Gouvernement précise que ce dernier, avec M. Khiari, à la sortie d'une conférence organisée par l'Institut supérieur des sciences humaines de Tunis, avait rendu public sa décision d'entamer une grève de la faim de trois jours pour protester contre des allégations de torture systématique et l'absence de libertés dans le pays. Le Gouvernement a informé la Représentante spéciale que de telles actions étaient injustifiables

dans la mesure où, selon le Gouvernement, elles visaient à contester la mesure judiciaire qui frappe M. Khiari par le biais de pressions alors que la question relève uniquement de la justice. Le Gouvernement a également indiqué que les allégations de mauvais traitements contre M. Khiari sont sans fondement. Par ailleurs, il a précisé que concernant le refoulement à l'aéroport de Tunis-Carthage de la délégation de la Commission internationale des juristes le 26 octobre 2002, la Mission permanente de Tunisie à Genève avait informé à plusieurs reprises la CIJ que la mission qui visait à enquêter sur la situation du barreau et de la justice en Tunisie à l'invitation de la LTDH n'avait pas lieu d'être, et que par conséquent, l'accès au territoire ne leur serait pas autorisé, précisant que la LTDH n'avait pas capacité à émettre de telles invitations, en particulier au vu de la décision judiciaire limitant sa tâche à l'organisation de son assemblée générale.

440. Par une lettre datée du 28 juillet 2003, le Gouvernement a répondu que le CTIJ et l'AISPP n'avaient pas d'existence légale en Tunisie et qu'aucune plainte n'avait été déposée quant à la supposée agression de Mokhtar Yahiaoui. Celui-ci aurait reconnu que l'investigation dont il faisait l'objet suite à sa participation à une réunion non autorisée était « un dialogue plus qu'un interrogatoire ». Concernant **Maîtres Bhiri et Akremi**, leur enfant, Lassad Jouhri, et M^e Samir Dillou, le Gouvernement et que les allégations d'agression étaient sans fondement. Il n'y avait pas eu de plainte de la part des personnes supposément agressées ni de la part de possibles témoins oculaires. Par ailleurs, s'il est vrai qu'une plainte avait été déposée le 26 décembre 2002 par un avocat au nom de plusieurs de ses confrères, le Gouvernement a informé que M^e **Souilhi** aurait nié, dans sa plainte déposée le 20 janvier 2003, avoir été agressé et avoir chargé qui que ce soit de déposer une plainte en son nom. Le Gouvernement a également précisé que l'AISPP avait par le passé abusé certaines ONG internationales et défenseurs. Quant à la célébration organisée par la LTDH le 13 décembre 2002, le Gouvernement a répondu que cette organisation était sous le coup d'une décision judiciaire et n'avait pas le droit d'entreprendre des initiatives de cette nature. Aucune plainte portant sur de l'harcèlement ou des agressions n'avait été déposée par Mokhtar Trifi, président de la LTDH. Enfin, en ce qui concerne Abdallah Zouari, le Gouvernement a informé qu'il était sous le coup d'une décision judiciaire de contrôle administratif qui avait fixé son lieu de résidence à Zarzis.

Observations

441. La Représentante spéciale remercie le gouvernement tunisien pour ses réponses et espère recevoir bientôt une réponse à ses autres communications. Elle tient à exprimer son inquiétude concernant notamment les allégations ayant trait à l'obstruction à la liberté d'expression, de réunion et de mouvement des défenseurs des droits de l'homme en particulier les nombreuses allégations concernant la surveillance et le harcèlement des avocats et des journalistes. Elle regrette qu'à ce jour, le Gouvernement n'ait pas donné suite à sa demande d'invitation à effectuer une visite officielle envoyée le 21 août 2002.

Turkey

Communications sent

442. On 18 July 2003, the Special Representative transmitted an urgent appeal regarding **Ridvan Kizgin**, Chairman of the Bingöl Branch of the İnsan Hakları Derneği (IHD), Human

Rights Association, who has allegedly been repeatedly threatened over the telephone. She expressed concern that this may have been due to a report released by IHD on 5 July 2003, which highlighted an apparent increase in human rights violations in the region, and at reports that the Bingöl branch and its chairperson have been placed under great pressure by the Turkish authorities for several years. According to the information received, Mr. Kizgin received a telephone call at his home on 8 July 2003 at around 10 p.m. from a man identifying himself as the commander of the gendarmerie regiment in Bingöl Province, who told Mr. Kizgin to come to the local gendarmerie headquarters. The man reportedly said that Mr. Kizgin's statements on human rights violations were incorrect and that he should only make statements after he had talked to the gendarmerie. When Mr. Kizgin reportedly disputed this, the caller allegedly began to threaten him. Mr. Kizgin reportedly received another call at home at 10.45 p.m. on the same evening, and on his mobile phone at 9.30 a.m. on 10 July. Both calls were reportedly from another individual who reportedly told him that the gendarmerie commander wanted to see him. The caller allegedly requested Mr. Kizgin to retract the IHD report on human rights violations in Bingöl and to state publicly that the allegations were incorrect. Another telephone call was reportedly received at his home at 4.30 p.m. on 10 July, when Mr. Kizgin was not at home.

443. On 21 July 2003, the Special Representative, in conjunction with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, transmitted an urgent appeal on the situation of **Sevim Yetkiner** and **Baki Çelebi**, respectively chair and executive committee member of the Mus branch of the Human Rights Association (Insan Haklari Dernegi – IHD). They were allegedly remanded to prison in Mus, southeast Turkey, to await trial on 17 July 2003, after allegedly responding to a request to report to the Anti-Terror Branch of the local police headquarters. Six other people, including two other members of the Mus branch of IHD, were also reportedly arrested in Mus Province, after responding to the same request. It is alleged that they were imprisoned as the result of an 8 July decision by a court in Dogubeyazit in eastern Turkey to arrest the group in absentia. According to the information received, the decision is allegedly connected with their attendance on 26 May at the funeral of Ismet Baycan, a member of the illegal armed group the Kurdistan Workers' Party (PKK), who allegedly died on 24 May in Mus E-Type Prison, allegedly following severe delays in medical treatment. In view of the alleged long-term harassment of IHD - at least 10 IHD members have reportedly been killed since 1991 - concern has been expressed that Sevim Yetkiner and Baki Çelebi may be detained for their activities as human rights defenders, in particular for the work they have undertaken on conditions in Mus E-type Prison, where there have reportedly been repeated complaints of ill-treatment, insufficient medical treatment for prisoners and harassment of their visitors.

444. On 22 October 2003, the Special Representative sent an urgent appeal regarding the alleged judicial proceedings against **Alp Ayan** and **Günseli Kaya**, both medical doctors and staff members of the Human Rights Foundation of Turkey, Izmir Treatment and Rehabilitation Centre, which provides assistance to torture victims. According to the information received, on 30 September 1999, Alp Ayan and Günseli Kaya 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 members of a terrorist organization and disseminating propaganda on its behalf. Both were reportedly released after four months in prison on remand at the first hearing of their trial on 20 January 2000. This case was the subject of a letter of

allegation by the Special Representative on 19 October 2001, to which the Government responded on 2 January 2002. According to the information received, since then, their trial has been continuing for approximately three and a half years, with repeated adjournments for technical reasons on at least nine occasions. The most recent hearing was allegedly held on 26 September 2003 at the Aliaga Penal Court of First Instance, and it was reportedly adjourned to 14 November 2003. In the meantime, according to the information received, Alp Ayan has reportedly been the subject of 16 trials under article 2911 of the Turkish Penal Code, on charges of illegally holding a demonstration in connection with press statements and in response to alleged human rights violations in F-Type prisons since December 2000. Of the 16 reported trials, 14 have reportedly resulted in an acquittal at the Penal Courts of First Instance. The next hearing for a verdict was reportedly scheduled for 27 October 2003. Concern was expressed that these reported lengthy and repeated proceedings may have been an attempt at hindering the human rights activities by these two men.

445. On 22 October 2003, the Special Representative sent an urgent appeal regarding the situation of seven members of the Turkish non-governmental organization "GIYAV" (Migration and Humanitarian Assistance Foundation), who allegedly continued to face judicial proceedings in State courts. According to the information received, 21 members of GIYAV reportedly faced legal proceedings under article 169 of the Turkish Penal Code (TPC) on charges of "abetting and harbouring an illegal organization" in connection with the use of expressions such as "Kurdish mother tongue", "multi-culturalism", "forced migration" and "state of emergency practices". It is reported that in conformity with the reform of article 169, on 20 October 2003, the Court acquitted GIYAV members of charges under article 169 and ordered that legal and administrative documents confiscated earlier that year by the Public Prosecutor be given back to the organization. However, according to the information received, seven GIYAV members, **Mustafa Erdogan, Kadir Arikan, Hikmet Özcan, Mehmet Barut, Ayse Bakaç, Remzi Erkut and Ömer Dogan**, who were reportedly members of the executive board in April 2002, when the judicial proceeding was opened, will reportedly be referred to the Mersin Penal Court of first instance under article 312 (1) of TPC, which relates to the notion of "praising a crime". While the Special Representative welcomes the acquittal of GIYAV members, concerns were expressed that article 312 of TPC may now be used as a substitute to the amended article 169 in an attempt to continue to hinder the work of human rights defenders.

446. On the 29 October 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 appeal regarding the situation of the Human Rights Foundation of Turkey (HRFT), an organization that provides assistance to victims of torture and documents human rights violations, which was allegedly facing trial. According to the information received, on 28 July 2003, the General Directorate of Foundations reportedly filed a case with the Duty Court of First Instance against HRFT and members of its board, reportedly on the basis of an annual inspection of the organization it carried out in 2001. The charges were allegedly comprised of attempting to collect contributions via Internet, presenting reports to and cooperating with international organizations, all without permission, in contravention of the Law on Collecting Contributions (No. 2860 of 1983) and the Regulations on Foundations under. The charges were reported to relate, inter alia, to the translation of the "Special Report on the Prison Problem in Turkey" into English, the dissemination of the same report at the international level, meeting with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the provision of information on

operations in Turkish prisons to the EU Rapporteur for Turkey, and on the human rights situation in Turkey to the Council of Europe Commissioner for Human Rights. The first hearing of the case will reportedly be held at the Civil Court of First Instance No. 15 on 12 November 2003. Concern has been expressed that this trial may be aimed at preventing the Human Rights Foundation from carrying out activities in favour of human rights.

447. On 30 October 2003, the Special Representative sent a further urgent appeal regarding the situation of **Alp Ayan** and about **Mehmet Barindik**, Aegean region representative of the Limiter-Is Union, a trade union for shipyard workers. According to the information received, on 16 May 2001, a case was opened against Alp Ayan and Mehmet Barindik in the Izmir Heavy Penal Court No. 4 in connection with their press statement at a demonstration called "Izmir Platform against F-Type Prisons" on 13 January 2001. On 10 June 2002, Alp Ayan and Mehmet Barindik were allegedly sentenced to imprisonment for one year on charges of violating article 159 of TPC. According to the information received, the Supreme Court of Appeals reportedly decided to repeal the Izmir court decision in view of the recent amendment to article 159 on 2 August 2002. On 19 June 2003, the re-hearing was reportedly held at the Izmir Heavy Penal Court. During the hearing, the public prosecutor reportedly demanded the release of the defendants on the grounds that the press release was not beyond criticism. However, the court allegedly decided to renew its decision and sentenced both men to one year's imprisonment. The case has reportedly been appealed to the Supreme Court.

448. On 10 November 2003, the Special Representative of the Secretary-General on the situation of human rights defenders jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an allegation letter concerning the cases below.

449. **Veli Lök**, a surgeon, and the Izmir Representative of the Human Rights Foundation of Turkey, an organization that provides assistance to torture survivors and documents human rights abuses, was reportedly tried at Izmir Penal Court of First Instance No. 2 under article 30(2) of the Press Law on charges of "disclosing opinions about court decisions and inspiring and advising the Court", on 11 February 2000. These charges were reportedly connected with comments published on 31 October 1999 in the daily newspaper *Cumhuriyet* about the remand and prosecution of Alp Ayan and Günseli Kaya, also members of the Human Rights Foundation of Turkey, a case which was the subject of an urgent appeal by the Special Representative on 22 October 2003. On 13 June 2000, Veli Lök was allegedly sentenced to one month's imprisonment, which was later reportedly commuted to a fine, which was reportedly suspended under a general amnesty.

450. **Eren Keskin**, lawyer and President of the Istanbul branch of the Turkish Human Rights Association (IHD) and of Erdal Tas, editor-in-chief of the daily newspaper *Yeni Gündem*. According to the information received, on 18 December 2001, the Bayoglu Prosecutor allegedly filed a case against Eren Keskin, under article 159 of TPC for "insulting the armed forces of the State". This was allegedly connected to statements by Eren Keskin in the daily newspaper *Yeni Gündem*, in support of a group of alleged victims of police torture. On 15 June 2001, a case was also allegedly filed under article 159 of TPC against Erdal Tas, editor-in- chief of *Yeni Gündem*,

for having published Erin Keskin's statements. Concern was expressed that Eren Keskin may have been targeted because of her work on human rights, in particular, her advocacy on behalf of the alleged victims of torture.

451. **Filiz Kalayci**, a lawyer, reportedly made statements in a national newspaper, *Cumhuriyet*, advocating the reform of F-Type prison on 15 January 2002. On 5 February 2002, the Ankara Public Prosecutor's Office allegedly commenced an investigation into her reported statements. She was reportedly indicted on 23 March 2002 on charges of "insulting the Ministry of Justice" and "professional misconduct" under articles 159 and 240 of the Turkish Penal Code (TPC) respectively, despite reported amendments to article 159 of TPC, legalizing statements critical of State institutions where there is no intention to insult. On 12 April 2002, the trial reportedly began at the Kirikkale Heavy Penal Court and she was acquitted on 20 May 2003. While the Special Representative and the Special Rapporteur welcomed the reported acquittal of Filiz Kalayci, concern was expressed that her indictment in spite of the recently passed amendments to article 159 and the reported subsequent lengthy trial may have been intended as a form of harassment. Concern has equally been expressed that the independence of the judges in the case may have been compromised by the alleged approval by the Minister of Justice and the Under-Secretary of the Minister of Justice of the preliminary investigation and prosecution of Filiz Kalayci.

452. On 10 November 2003, the Special Representative sent a communication to the Government regarding the alleged trial against 27 lawyers who had reportedly represented political prisoners from Ulucanlar Prison during a court proceeding in December 2000. According to the information received, on 27 November 2001, the lawyers had reportedly been indicted for shouting slogans against the gendarmes and inciting the accused to resistance during a trial hearing on 5 December 2000. The lawyers were also allegedly charged with professional misconduct under article 240 of TPC. On 31 October 2002, the charges against the lawyers were reportedly dismissed for lack of sufficient evidence. It was reported that no breach of the peace by the lawyers had been recorded in the official court record of the day's proceedings. It was further reported that the lawyers had allegedly acted in an attempt to halt an alleged assault by the gendarmes against their clients. While the acquittal of the accused was welcomed, concerns were expressed that such trial may constitute a reprisal for and a measure of deterrence against lawyers representing political prisoners. Concerns were also expressed that the preliminary investigation and protection of the 27 lawyers had allegedly been approved by the Ministry of Justice, which may have entailed a form of pressure on the independence of the judges involved.

Communications received

453. By letter dated 21 August 2003, the Government responded to the urgent action sent by the Special Representative on 21 July regarding the case of **Sevim Yetkiner** and **Baki Celebi**. The Government informed the Special Representative that the aforementioned persons had not requested the assistance of a lawyer while in custody and furthermore, that they had not reported any ill-treatment and had been transferred to Erzurum E-type Prison on 1 August. Their case was ongoing at that time.

454. By letter dated 23 October 2003, the Government responded to the urgent action sent by the Special Representative on 18 July 2003 regarding the case of **Ridvan Kizgin**. The

Government informed the Special Representative that an investigation had been conducted into the alleged threats against Mr Kizgin and that four security officers had been assigned to evaluate the seriousness of the allegation and to provide protection against a possible threat to him. However, they were unable to establish any serious threats. An inquiry had also been conducted into the identity of the owners of the telephone numbers allegedly used to threaten Mr. Kizgin, which revealed that no calls from these numbers had been registered at the house of Mr. Kizgin on the dates reported by him. Furthermore, the Government informed the Special Representative that despite having been informed by the Office of the Governor of Bingöl that physical protection could be provided for him in accordance with the Regulation on Protection Services, no complaint had been filed by Mr. Kizgin.

455. By letter dated 19 December 2003, the Government responded to a communication sent by the Special Representative on 30 October 2003 concerning **Alp Ayan** and **Mahmet Barindik**. The Government informed the Special representative that the accused persons were sentenced to one year's imprisonment on 10 June 2002 for "insulting the Ministry of Justice" under article 159 of the Penal Code. This decision was reportedly overruled by the Court of Cassation on 27 February 2003. Upon retrial in the heavy penal court of Izmir, Mehmet Barindik was sentenced to one year's imprisonment while Alp Ayan was sentenced to one year and one day in jail in line with article 81(1), which regulates penalties for persons convicted of perpetrating similar crimes. The Government informed the Special representative that this second verdict was in the process of being appealed.

456. By letter dated 23 December 2003, the Government responded to the urgent action sent by the Special Representative on 22 October 2003 regarding the members of "GIYAV". The Government informed the Special Representative that 14 of the accused had been acquitted on 20 October and that the Court, having delivered a decision of non-competence on the remaining seven, had decided to refer the case to the Penal Court of First Instance in Mersin. This decision had been appealed by the Office of the Public Prosecutor and was under review at that time. No lawsuit had, therefore, been filed against the seven persons accused.

457. By letter dated 30 December 2003, the Government responded to the urgent action sent by the Special Representative on 29 October 2003 regarding the situation of the Human Rights Foundation of Turkey (HRFT). The Government informed the Special Representative that the lawsuit against members of HRFT had been filed on the grounds of a breach of Law No.2860 related to the collection of aid and the carrying out of cooperation activities with foreign institutions without having obtained the consent of the Council of Ministers. At that time, a review of the case was under way at the Court of First Instance in Ankara and the next hearing of the case was due to be held on 20 January 2004.

458. By letter dated 7 January 2004, the Government responded to the urgent action sent by the Special Representative on 22 October 2003 regarding the situation of **Alp Ayan** and **Günseli Kaya**. The Government stated that at a hearing on 5 February 2003 a statement was taken from Alp Ayan and the trial was then postponed until 30 April 2003, at which date the Court requested some additional information concerning the case. The next hearing took place on 20 June 2003, at which date Alp Ayan and Günseli Kaya requested more time to use their right to defence, a request which was accepted and the trial was postponed until 14 November 2003. However, at this date information from some of the 67 defendants in the case had still not been provided and

consequently the trial was again postponed until 19 December 2003. The Government stated that it would promptly provide information on the outcome.

459. By letter dated 20 January 2004, the Government responded to the urgent action sent by the Special Representative regarding 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.

460. By letter dated 10 February 2004, the Government responded to the communication sent by the Special Representative on 10 November 2003 regarding the situation of **Veli Lök**. The Government confirmed that on 13 June 2000 the person concerned had been sentenced to one month in prison and to pecuniary punishment for violating article 3072 of the Press Law and that the prison sentence had been converted to additional pecuniary punishment in accordance with Law No. 647. The Government also reminded the Special Representative that Turkey had in recent years launched a comprehensive reform process, which included the expansion of the scope of freedom of thought and expression through various legislative amendments to the Press Law.

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

461. By letter of 26 May 2003, the Government replied to the communication sent by the Special Representative on 14 October 2002 regarding the situation of **Alp Ayan and Mehmet Barindik**. The Government stated that they had been sentenced to one year's imprisonment on 10 June 2002 for insulting the Ministry of Justice. An appeal had been filed and, at that time a fresh review of the case in the Court of First Instance had begun.

462. By letter of 24 December 2003, the Government responded to the communication sent by 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 on 28 June 2001 regarding the case of the publishers of the book entitled *Freedom of Thought 2000*. The Government stated that the lawsuit filed against all the accused for making propaganda for an armed terrorist organization through publication in violation of the Anti-Terror Law and Press Law had been acquitted on 29 September 2003, with the exception of Sadik Taşdoğan, who had previously been acquitted on 11 June 2001. Their acquittal was related to recent changes undertaken as part of the general reform process.

Observations

463. The Special Representative thanks the Government of Turkey for the spirit of cooperation shown in the promptness and number of its responses and hopes to soon receive additional

information on her remaining communications. She welcomes the acquittal of the 14 GIYAV members and the fact that no lawsuit was pursued against the remaining seven. The Special Representative also welcomes the reform process launched by Turkey, including the expansion of the scope of freedom of thought and expression through various legislative amendments. She hopes that these changes will be promptly implemented in order to ensure that the rights included in the Declaration on human rights defenders are respected. The Special Representative, however, remains concerned with the reported persistent use of legal proceedings against defenders. In particular, she is concerned by reports of the continuing use of restrictive legislation by local courts to limit the freedom of expression of human rights defenders despite legislative reform packages. She invites the Government to take all necessary measures to ensure that the rights enshrined in the Declaration on human rights defenders are respected. The Special Representative would like to thank the Government for extending an invitation to conduct an official visit to Turkey. She regrets that her official visit had to be postponed from its original dates in December 2003 and hopes that it can be conducted shortly.

Turkmenistan

Communications sent

464. On 27 December 2002, the Special Representative, together with the Special Rapporteur on the question of torture, sent an urgent appeal regarding **Fahrid Tukhbatullin**, an activist associated with the Dashogus Ecological Club in Turkmenistan, who was allegedly arrested by security agents on 23 December 2002 at around 17.00 in Dashoguz. On that evening, he is said to have been brought to Ashgabad where he is reportedly currently detained. It is believed that he is accused of having participated in a meeting organized by the International Helsinki Federation for Human Rights and Memorial organized in Moscow in November where human rights activists discussed the current human rights situation in Turkmenistan. It is not known whether he has access to a lawyer or to family members. Fears have been expressed that he may be at risk of torture and other forms of ill-treatment.

465. On 18 June 2003, the Special Representative transmitted an urgent appeal concerning **Natalia Shabunts**, President of the human rights organization Civil Dignity, who was allegedly followed and intimidated following her criticisms of the human rights situation in Turkmenistan during a meeting on 27 May with OSCE representatives. On 28 May 2003, when Natalia Shabunts tried to leave her apartment to go to a dinner organized by OSCE, four security service agents, who had reportedly been observing her building from three cars, allegedly attempted to arrest her. She reportedly managed to run back to her apartment, thereby avoiding the arrest. The agents allegedly remained outside her building until 11 p.m. The purpose of this action may have been to prevent Natalia Shabunts from attending the planned dinner and from further discussing the human right situation with OSCE members and journalists. This comes after a series of incidents committed against Civil Dignity when authorities allegedly prohibited the organization from holding seminars on democracy and human rights in Ashkhabad in November, December 2001 and January 2002.

466. On 31 October 2003, the Special Representative, together with the Special Rapporteur on the question of torture, sent a joint allegation letter on the alleged forced internal displacement

and ill-treatment of **Sazak Begmedov**, father of Tajigul Begmedova (f), chair and founder of the Turkmenistan Helsinki Foundation, a non-governmental human rights organization, who reportedly lives in exile in Bulgaria. According to the information received, on 31 August 2003, Sazak Begmedov was allegedly abducted by four officers of the Ministry of Internal Affairs in Ashkhabad. He was reportedly beaten and forcibly conveyed to an airplane flying to Dashagous, near the border with Uzbekistan. Upon requesting the reason for this forced internal displacement, he was allegedly told by one officer that it was related to the "Turkmen Helsinki Committee". It was further reported that the local police in Dashagous refused to listen to his complaints about being beaten and told him that he needed to inform them of his whereabouts. On 3 September 2003, Sazak Begmedov was reportedly hospitalized in Dashagous with a heart attack, allegedly due to ill-treatment by the officers. Concern has been expressed that Sazak Begmedov may have been targeted in reprisal for his daughter's activities with the newly established Turkmenistan Helsinki Foundation, in particular organizing open letters, public radio statements, pickets and Internet articles in order to highlight human rights concerns in Turkmenistan.

467. On 28 November 2003, 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 an urgent appeal regarding **Saparmurat Ovezberdiev**, a correspondent for Radio Free Europe/Radio Liberty's Turkmen-language service in Ashkhabad. According to information received, on 14 November 2003, two men believed to be secret service agents forcibly took Mr. Ovezberdiev to an Ashkhabad cemetery, where he was allegedly brutally beaten, threatened and dumped on the side of a road. The two men reportedly told him "We've had enough of you. We're going to get rid of you". Mr. Ovezberdiev reportedly sustained head injuries in the incident. In addition, reports indicate that on 11 September 2003, Mr. Ovezberdiev was arrested by National Security Ministry officers and detained for three days. He was allegedly drugged, manhandled and threatened with a 20-year prison sentence for being a "traitor to the homeland". These actions might be related to one of Mr. Ovezberdiev's radio programmes, "Open Microphone", in which listeners are given an opportunity to speak out when their rights are violated and to get in touch with legal experts and human rights organizations abroad. It is reported that National Security Ministry officials have called for the cancellation of the programme on several occasions.

Observations

468. The Special Representative regrets that at the time of the finalization of her report no response to her communications had been received. She would like to recall that an invitation request was sent to Turkmenistan on 15 October 2003 and that no response has been received yet. She wishes to express her serious concern at reports of arrests, detentions and surveillance of defenders, particularly in connection to their participation in meetings on human rights issues. The Special Representative is equally concerned about allegations of restrictions imposed on defenders' freedom of assembly. She calls on the Government to take all necessary measures to ensure that the rights enshrined in the Declaration on human rights defenders are respected.

Uganda

Communications sent

469. On 3 October 2003, the Special Representative transmitted an urgent appeal regarding the situation of the Uganda Human Rights Commission (UHRC), a well-known and respected institution for the pivotal role it plays in the promotion and protection of human rights nationally, regionally and internationally, which has broad-based powers in the area of administration of justice and particularly in providing redress to individuals for human rights violations. The Ugandan cabinet in its submission to the Constitutional Review Commission has reportedly proposed to phase out the Uganda Human Rights Commission and to merge its functions into that of the Inspector General, the national ombudsman institution that reportedly works under the Office of the President. The cabinet has allegedly cited cutting down public expenditure as a justification for its proposal. Concerns have been expressed that the proposal to phase out of UHRC may be an attempt to prevent the Commission from performing its human rights functions, in particular exposing human rights abuses committed by the Government and its subsidiary organs and providing assistance to individual victims of human rights violations.

Observations

470. The Special Representative regrets that at the time of the finalization of her report no response had been received from the Government.

United Kingdom of Great Britain and Northern Ireland

Communications sent

471. On 16 October, the Special Representative sent an urgent appeal regarding the situation of the Northern Ireland Human Rights Commission, an institution established on 1 March 1999, following the Belfast/Good Friday Agreement, which works on the promotion and protection of human rights in Northern Ireland in particular, in conformity with the Principles relating to the status of national institutions (The Paris Principles) unanimously endorsed by the United Nations General Assembly in its resolution 48/134 of 20 December 1993, on the handling of individual complaints. According to the information received, on 15 July 2003, a report was issued by the Joint Committee on Human Rights of the United Kingdom Parliament. This report allegedly reviewed the work of the Commission and made a number of recommendations aimed at strengthening aspects of the Commission's legislation. One of the recommendations of the report, however, allegedly refers to the removal of the Commission's power to handle individual allegations of human rights violations. With regard to the proposal to remove the Commission's power to review individual cases, concern has been expressed that this may weaken the institution, especially its capacity to respond to individual queries and provide effective remedies. The establishment and strengthening of national human rights institutions are key elements in the promotion and protection of human rights at the national level, particularly in view of their independent and pluralistic nature. The handling of individual complaints about human rights violations, in keeping with the Paris Principles, is a particularly important function that national human rights institutions may perform, as is the case of the Northern Ireland Human Rights Commission.

Communications received

472. By letter dated 6 November 2003, the Government replied to the communication submitted by the Special Representative. The Government informed the Special Representative that the Joint Committee on Human Rights (JCHR) had not recommended that the Commission's powers to handle individual allegations of human rights violations be entirely removed but rather that the report had thought it "impractical and inappropriate for a human rights commission to have a leading role in providing assistance to individual victims of alleged human rights violations" and that "That function should be allocated to the Northern Ireland Legal Aid Department. The Commission should focus its case work on strategic goals rather than individual redress"..

Observations

473. The Special Representative thanks the Government for its prompt response and clarification of this issue.

United Republic of Tanzania

Communications sent

474. On 4 December 2002, the Special Representative transmitted a communication to the Government concerning the law on NGOs of 2002, reportedly adopted by the Tanzanian Parliament in November 2002 and due to enter into force by the end of October 2003, which reportedly contains a number of provisions which might adversely impact the work and activities of human rights defenders. In particular, according to the information received, article 35(1) of the law allegedly provides for criminal sanctions of up to one year's imprisonment for any person operating a non-registered NGO. It was reported that the cases in which registration can be denied were not strictly defined by the law. In particular, it was reported that the law provided that refusal to register an NGO by the Coordination Board (NGO Board) may allegedly be based on the assessment that the activities of an NGO do not strive for the "public interest". In that context, it was also reported that the definition of what constituted public interest remained vague. It was also reported that the NGO Act provided that the director of the NGO board be directly appointed by the President. Concern was expressed that these provisions may result in limiting the freedom of association within Tanzanian civil society. Additionally, concern was expressed that certain provisions may result in interference from the State in NGO activities. In particular, the NGO Act reportedly stipulates that the NGO Board shall provide "policy guidelines to NGOs for harmonizing their activities in light of the national development plan". Article 7 also reportedly provides the NGOs Board with the right "to investigate and to inquire into any matter" in order to ensure that NGOs adhere to their own statutes.

Observations

475. The Special Representative regrets that no response was received from the Government at the time of the finalization of her report.

United States of America

Allegations

476. On 6 November 2003, the Special Representative received information concerning the alleged injuries of **Erik Shaw** and **Willow Rosenthal**, members of Direct Action to Stop the War (DASW), a network of anti-war organizations. According to the information received, on 7 April 2003, the Oakland Police Department allegedly fired rubber bullets directly at peaceful demonstrators reportedly protesting against corporate interests in the war against Iraq at the Port of Oakland, California. This alleged incident was the subject of a letter of allegation by the Special Rapporteur on the question of torture and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 10 September 2003. The police allegedly also used "wooden pellets", "sting ball grenades", "shot-filled bean bags" and tear gas against demonstrators, allegedly injuring around 40 of them. While the police reportedly claimed that demonstrators initially began throwing rocks, concrete and steel bolts at them, according to the information received by the Special Representative, the police opened fire without any violent provocation from the demonstrators and only 30 seconds after ordering demonstrators to disperse. According to the information received, Willow Rosenthal was allegedly injured in the back of her calf. It is reported that she went to the emergency room of the Kaiser Hospital, Oakland, for treatment, where she reportedly also filed a complaint against the Oakland Police Department. She has allegedly received no copy of this complaint, despite reportedly having requested one. She was later reportedly diagnosed with a blood clot and underwent surgery on 30 April 2003 and a skin graft on 5 May 2003. Erik Shaw was allegedly seriously injured on his right calf with a wooden pellet. Concern was expressed that excessive force may have been used against persons exercising their right to protest human rights concerns.

477. The Special Representative also received information regarding the alleged surveillance of Erik Shaw during his functions as a liaison person between law enforcement agencies and protesters during demonstrations in San Ramon, California, on 14 April 2003 and in Sacramento, California, from 20 to 25 June 2003. According to the information received, on 14 April 2003, Erik Shaw was allegedly photographed several times, during a video interview with a local journalist, by three men in plainclothes at a demonstration outside a Texaco station in San Ramon, California. One of the three men allegedly photographed the notepad of the journalist, which reportedly contained Erik Shaw's contact information. Erik Shaw reportedly asked the men whether they were employed by a government agency, stating that they looked like federal officers. One of the men allegedly responded that Erik Shaw had "good intuition". On 22 June 2003, Erik Shaw reportedly saw six Sacramento police officers disembark from a passenger van and begin searching through the contents of his driver's flatbed truck. He reportedly asked the officers if they possessed a search warrant. They allegedly replied that the bed of the truck was in plain view and did not require any warrant. He reportedly stated that the officers needed to obtain the necessary judicial authorization, and the officers allegedly returned to their vehicle and drove away.

478. On 9 December 2003, the Special Representative sent a letter of allegation regarding the alleged restrictions on efforts by United for Peace and Justice (UFPJ), an umbrella organization

of groups opposed to war, to demonstrate against military action in Iraq. According to the information received, on 22 January 2003, the New York Civil Liberties Union (NYCLU), legal representative of UFPJ, reportedly informed the New York Police Department (NYPD) of the intention of UFPJ to organize a march on 15 February 2003 to demonstrate disagreement with U.S. military activities in Iraq, and involving a procession that would pass in front of United Nations Headquarters. On 4 February 2003, NYPD reportedly informed NYCLU that they would not allow a march anywhere in New York on 15 February 2003, and would allow only a stationary rally. On 12 February 2003, the U.S. Court of Appeals allegedly upheld the District Court decision that a march past the United Nations posed an unacceptable security risk, and that it was reasonable to ban any alternative routes. It was reported that on 15 February 2003, NYPD allegedly prevented people from joining the stationary rally by blocking off streets and giving conflicting instructions as to which streets were blocked off. Those who did reach the rally point were reportedly divided by authorities into sections in a manner making it extremely difficult for people to leave one section of the rally or to cross into a separate one. NYPD allegedly ordered many demonstrators to move away from where the rally was taking place, charging horses into crowds, pepper-spraying demonstrators and using batons to disperse them, as well as arresting over 350 demonstrators, some of whom were allegedly interrogated about their political and religious affiliations, detained in poor conditions and denied access to legal advice. Concern has been expressed that the alleged prevention of a 15 February march in New York, the alleged disruption of the rally and the treatment of some of its participants reflect violations of the rights contained in the Declaration on human rights defenders. This concern is heightened by reports that between autumn 2002 and the application by NYCLU in January 2003, NYPD had allegedly turned down every application for a parade permit for a protest march.

Observations

479. The Special Representative regrets the absence of a response from the Government to her communications.

Uzbekistan

Communications sent

480. On 27 January 2003, the Special Representative transmitted an urgent appeal concerning acts of intimidation against **Norboye Kholzhigitov**, Chairman of the Ichtikhan office of the Human Rights Society of Uzbekistan (HRSU) in the Samarkand region. On 19 January 2003, about a dozen policemen reportedly entered the house of Norboye Kholzhigitov and began insulting and threatening him and his family. This raid is said to be linked to an interview granted by Kholzhigitov to Radio Free Europe just a few days earlier, in which he described the human rights violations being carried out in the Samarkand region. It is reported that since the local HRSU offices have been created, members of the association, and their friends and families, have been frequently harassed. HRSU has reportedly been requesting registration since 1992, but this has been systematically refused. In addition, it is reported that a member of the Russian Memorial Association, Nicolai Mitrokin, who has been working on the human rights situation in Uzbekistan for several years, and who denounces in particular the practice of torture in this country, has been prevented from entering the country on two occasions. On 18 January,

while travelling to Uzbekistan to carry out research, he was reportedly sent back to Moscow on his arrival in Tashkent Airport. Once again, on 22 January, on his arrival in Tashkent in the morning, his passport and airplane ticket were allegedly confiscated, and he was held for several hours at the airport. At 7 p.m., police services told him he was being sent back with no explanation or no official document stating the reason for this.

481. On 5 June 2003, the Special Representative, in conjunction 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 Chairman-Rapporteur of the Working Group on Arbitrary Detention, transmitted an urgent appeal concerning Uzbek human rights activist and independent journalist, **Ruslan Sharipov**, and two of his colleagues, **Oleg Sarapulov** and **Azamat Mamankulov**. According to the information received, on 26 May 2003, Ruslan Sharipov was allegedly arrested and charged under article 120 of the Criminal Code with having committed homosexual acts. He was reportedly only granted access to a lawyer on 28 May, two days after his arrest. While in detention he was allegedly beaten, verbally abused and threatened to be raped with a bottle. The police allegedly displayed copies of his articles on a table in front of him and shouted at him for long periods. His colleagues, Azamat Mamankulov and Oleg Sarapulov were allegedly also arrested but at the time the appeal was sent, had reportedly still not been charged. These recent attacks reportedly followed previous harassment of the above-mentioned individuals in 2002. Concern was expressed that Ruslan Sharipov and his colleagues may be targeted as a result of their human rights activities, in particular articles on police corruption and human rights abuses.

482. On 25 June 2003, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture, transmitted an urgent appeal concerning **Iskander Khudoberganov**, believed to be at risk of being executed and **Dilobar Kudoberganova**, his sister and an active member of the human rights organization Mothers against the Death Penalty and Torture in Uzbekistan. The United Nations Human Rights Committee (HRC) intervened in his case and requested the Government to stay his execution while they considered his case. In view of the fact that three other men on behalf of whom HRC had made a similar request to the Government were reportedly executed in May 2003, it was feared this might also happen to Mr. Khudoberganov. It was alleged that he might have been subjected to torture, beatings and deprivation of food and sleep, and threatened with the rape of his female relatives while in custody to oblige him to sign a confession. The Special Rapporteur on the question of torture sent an urgent appeal jointly with the Special Rapporteur on the independence of judges and lawyers in connection with this case on 22 November 2002 (see E/CN.4/2003/68/Add.1, para. 1929). On 6 December 2002, the Special Rapporteur on the question of torture, while on his visit to Uzbekistan, handed over a second urgent appeal on behalf of Iskander Khudoberganov and his co-defendants. It was further alleged that Iskander Khudoberganov's father was told by a member of the Uzbek National Security Service (SNB) that his other two children would be imprisoned if the family did not stop their protest against the death sentence. Dilobar Kudoberganova is reported to have been followed by SNB agents, who have allegedly slandered her publicly and attempted to prevent her from carrying out her human rights activities.

483. On 23 July 2003, 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 appeal concerning the alleged threats made against **Dilobar Kudoberganova**, member of the non-governmental organization Mothers against the Death Penalty and Torture, and **Akhmadjon Madmarov**. In the weeks following the annual meeting held by the European Bank for Reconstruction and Development (EBRD) in Uzbekistan from 4 to 5 May 2003, Ms. Khudoberganova allegedly received several anonymous calls questioning her participation in those meetings. On June 10, an SNB officer allegedly phoned her father, threatening to arrest her brother if she continued her human rights activism. During the EBRD meeting Akhmadjon Madmarov reportedly spoke openly about the imprisonment and torture of his three sons and nephews. On 9 May 2003, one of Akhmadjon Madmarov's sons, Abdullo, was allegedly placed in solitary confinement for five months. On 1 June 2003, Madmarov reportedly attended, as an observer, a protest of women relatives of religious prisoners. On 5 June, he was allegedly summoned to meet with a Margilan city prosecutor, and it is alleged that upon his arrival, he was told that the people in the room formed a "commission" and that the meeting was called to present him with an official warning letter, allegedly stating that he would be facing criminal charges if he attended any more protests. Madmarov was also among those interviewed by the Special Rapporteur on the question of torture during the latter's visit to Uzbekistan.

484. On 13 August 2003, the Special Representative, in conjunction 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, transmitted a follow-up urgent appeal regarding **Ruslan Sharipov**. On 23 July 2003, Mr. Sharipov's trial behind closed doors reportedly began in Tashkent, and on 8 August 2003, he allegedly waived his right to counsel, reportedly declared his intention to plead guilty on all charges, and reportedly asked that his mother, the only outside observer at the proceedings, be dismissed from the courtroom. He allegedly offered to publicly beg for the forgiveness of President Karimov, the Minister of the Interior, and local police, and retracted all Internet news articles critical of the Government that he had written from 2001 to 2003. Fears have been expressed that Mr. Sharipov's change in attitude might have been the result of the treatment to which he was allegedly subjected while in detention, as recent reports indicate that he may have changed his line of defence out of fear for his safety and that of his mother and lawyers. Serious fears have been expressed concerning his life and health if he does not receive appropriate and prompt medical treatment.

485. On 4 September 2003, the Special Representative, in conjunction with the Special Rapporteur on the question of torture, transmitted an urgent appeal concerning **Surat Ikramov**, a leading member of the Independent Group for Human Rights Defenders in Tashkent. At around 10.30 on 28 August 2003, Surat Ikramov was reportedly driving home from a meeting with a judge concerning his client, human rights activist Ruslan Sharipov, when he stopped after being hailed down by a man asking for a lift. Four men in black masks and camouflaged uniforms then allegedly pulled him out of his car, pulled a plastic mask over his head, tied up his arms and legs, and drove him to the outskirts of Tashkent, while severely beating him and restricting his air supply during the journey. Surat Ikramov, who reportedly received medical attention in the early evening, was found to have two broken ribs and severe concussion. Prior to this incident, Surat Ikramov had allegedly received several threatening phone calls. Concern has been expressed that this incident is directly connected to his work as a public defender for Ruslan Sharipov. Surat Ikramov has reportedly argued that the charges against Ruslan Sharipov were trumped up and the trial unfair, and had reportedly organized a peaceful demonstration outside parliament in support of Sharipov on 29 August 2003, the day before he was attacked.

486. On 29 September 2003, the Special Representative, together with the Special Rapporteur on the question of torture, received information on the situation of Mutabar **Tadjibaeva**, a journalist who has participated in OSCE missions and who regularly publishes articles on the human rights situation in Uzbekistan on the Internet. **Mutabar Tadjibaeva** was allegedly arrested, beaten and detained for 13 days in June 2002. It is also alleged that in April 2003, she was the victim of a defamation campaign. Information was also received regarding **Abdousalom Ergachev**, a human rights defender who has written several articles on the human rights situation in Uzbekistan, was reportedly arrested along with a friend on 28 March 2003 on his way home. He and his friend were reportedly beaten and insulted and taken to a police station without being informed of the charges against them. It is alleged that as a result of beating received on the head, Abdousalom Ergachev lost consciousness. He is said to have been beaten again when he regained consciousness. On 30 March 2003, both men were reportedly accused of having stolen a suit and forced to sign false statements. The alleged victim of the theft, Mr. Yoldashev, himself reportedly denied the facts. He was allegedly found the following day in a critical condition.

487. On 1 October 2003, the Special Representative, in conjunction 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, transmitted a second follow-up urgent appeal regarding **Ruslan Sharipov**, a human rights activist and journalist, for whom an urgent appeal was sent on 5 June 2003 on behalf of the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders. The Government responded to this appeal by a letter dated 18 July 2003. A second urgent appeal was sent in connection with this case on 13 August 2003 by the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders. Ruslan Sharipov was allegedly found guilty on 13 August 2003 under articles 120 (homosexuality), 127 (inciting minors to anti-social behaviour) and 128 (sexual relations with a minor) of the Uzbek Criminal Code, despite lack of forensic evidence that he had had sexual relations with a minor. He was reportedly sentenced to five and a half years in prison. It is reported that in a statement to the Secretary General of the United Nations written from prison on 5 September 2003, Ruslan Sharipov claimed he had been subjected to torture and threats while in detention. At an appeal hearing which took place on 25 September 2003 and during which his sentence was reduced to four years on appeal after charges under article 127 were dropped, Ruslan Sharipov's face was reportedly injured and his glasses were broken.

488. On 22 October 2003, the Special Representative, together 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, sent an urgent appeal regarding **Fatima Mukadirova**, mother of Muzafar Avazov, a religious prisoner who reportedly died from torture, including being submerged in boiling water in August 2002 at Jaslyk Prison. The Special Rapporteur on the question of torture already intervened in connection with the death in custody of Muzafar Avazov through a communication sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions on 2 September 2002

(E/CN.4/2003/68/Add.1, para.1921). During his fact-finding mission in Uzbekistan in November-December 2002, the Special Rapporteur on the question of torture enquired more specifically about this death (E/CN.4/2003/68/Add.2, para. 52). According to the new information received, after the death of her son, Fatima Mukadirova was subjected to pressure by the authorities to dissuade her from complaining to international organizations about her son's case. Nevertheless, she met with the Special Rapporteur on the question of torture during his visit to Uzbekistan. She was informed on that occasion by the Special Rapporteur that an assurance was given by the Government that no persons, officials or private individuals, who had been in contact with the Special Rapporteur in relation to the mandate would suffer for this reason any threats, harassment or punishment or be subjected to judicial proceedings. On 4 September 2003, officers from the Tashkent City Police Station reportedly conducted a search of her house without a warrant. The police allegedly claimed to have found religious leaflets and a religious book, detained Fatima Mukadirova and held her for two days at the Tashkent City Police Station. She was reportedly charged with infringing article 159 of the Criminal Code on anti-constitutional activities. Fatima Mukadirova claims that the above-mentioned religious material did not belong to her. On 19 October 2003, officers from the Tashkent City Police Station reportedly again searched her house while she was not at home. The police allegedly claimed to have found more religious leaflets and subsequently arrested her at the Chorsu bazaar, where she was working. She is reported to be currently held in custody at the Tashkent City Police Station. Fears have been expressed that Fatima Mukadirova may have been targeted for having reported the case of her son's death in custody to international bodies, in particular for meeting with the Special Rapporteur on the question of torture.

Communications received

489. By letter dated 11 September 2003, the Government responded to the communication regarding the case of **Ruslan Sharipov**. The Government informed the Special Representative that on 13 August 2003 the Mirzo Ulugbeg District Criminal Court in Tashkent had found Ruslan Sharipov guilty of having committed acts of sodomy with minors and that he was currently being held in a remand centre where he had not complained about his state of health or illegal actions by representatives of the administration. The Government confirmed that all the rights provided for by the legislation for persons held in custody were being enjoyed by the above-named person.

490. By letter dated 11 September 2003, the Government responded to the communication regarding the case of **Dilobar Kudoberganova**. The Government informed the Special Representative that following an inquiry into the case it had been established that neither **Dilobar Kudoberganova** nor **Akhmadjon Madumarov** had been subjected to threats or unlawful acts by staff of the procurational bodies, the Ministry of Internal Affairs or the National Security Service and that no complaints in this regard had been lodged by the alleged victims with the relevant bodies. It was also established that no unlawful actions had been taken by the administration against Khamidulla Madumarov, Abdulla Madumarov or Abdulakhat Madumarov, sons of Akhmadjon Madumarov, while serving various prison terms. It further stated that Abdulla Madumarov had violated prison regulations while serving his sentence and for this reason two disciplinary penalties were imposed on him in April and May 2003 – the penalties were not therefore related to his father's membership of the EBRD forum as alleged.

491. By letter dated 26 November 2003, the Government responded to the communication regarding the case of **Mutabar Tadjibaeva** and **Abdousalom Ergachev**. The Government informed the Special Representative that Mutabar Tadjibaeva, on being stopped by inspectors of the traffic control unit for a routine inspection of documents, had verbally insulted the traffic police and for this reason had been taken to the Internal Affairs Department of Qirguli District where she was held until the following morning and issued with a judicial warning. This was appealed by Mutabar Tadjibaeva and on 5 September 2002 her case was considered by the Qirguli District Court. Her appeal was successful. An investigation was also launched into the alleged beating of her by two Internal Affairs Department officers. On 16 December 2002, the Ferghana City Prosecutors Office ruled that, due to the absence of a criminal nature in their activity, no further investigation was necessary. This decision was accepted by the Office of the General Prosecutors of Uzbekistan. The Government also confirmed that on 7 April 2003, an investigation had been launched into the alleged beating of **Abdousalom Ergachev**. Following a forensic medical examination, no signs of physical injury were found on his body and for this reason, no further action was taken. The legality of this decision was being reviewed by the Office of the Prosecutor General.

492. By letter dated 28 November 2003, the Government responded to the communication regarding the case of **Fatima Mukadirova**. The Government informed the Special Representative that a criminal case had been brought against Fatima Mukadirova following the discovery of leaflets belonging to the religious extremist organization "Khizb-ut-Tahrir" in her home on 4 September 2003 and that a pledge of good conduct had been obtained from her as a preventive measure. A further search of her house was carried out by officers of the Central Criminal Investigation and Anti-Terrorism Department on 19 September, which led to the discovery of more leaflets and a second criminal case. The two cases were combined in a single proceeding and the preventive measure was changed to detention in custody. The examination of the criminal case was ongoing at that time.

Observations

493. The Special Representative thanks the Government for its responses in the cases of Ruslan Sharipov, Dilobar Kudoberganova, Mutabar Tadjibaeva, Abdousalom Ergachev and Fatima Mukadirova. She remains deeply concerned about the allegations of arrest, detention and ill-treatment of defenders as well as the reported practice of case fabrication used against them. She is particularly concerned at allegations of restrictions being imposed on defenders' freedom of expression and assembly. She calls on the Government to take all necessary measures to ensure that the rights enshrined in the Declaration on human rights defenders are respected.

Venezuela

Comunicaciones enviadas

494. El 20 de mayo de 2003, la Representante Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias con respecto a la situación de inseguridad en la que se encuentran **Enmary Cava** y sus familiares **Dinorah María Díaz Loreto**, **Jairo Alexis Díaz Loreto**, **Bladimir Díaz**, **Miguel Díaz Loreto** y

Alexandra Gualdron. De acuerdo con las informaciones recibidas, el 10 de mayo de 2003, un desconocido habría disparado seis veces contra Enmary Cava en la localidad de Cagua, Estado de Aragua. Enmary Cava permanecería en estado crítico en el hospital, al igual que una amiga suya cuyo nombre no ha sido comunicado y quien habría recibido tres disparos. Estos actos podrían estar relacionados con las presuntas amenazas de muerte que Enmary Cava y sus familiares Dinorah María Díaz Loreto, Jairo Alexis Díaz Loreto, Bladimir Díaz, Miguel Díaz Loreto y Alexandra Gualdron habrían estado recibiendo y que serían cada vez más numerosas. Se alega que los autores de las presuntas amenazas serían agentes de la policía del Estado de Aragua, quienes intentarían de intimidar a las personas mencionadas anteriormente para que dejen de presionar a las autoridades locales en lo que se refiere a la investigación exhaustiva del homicidio de Robert Díaz Loreto y Antonio Díaz Loreto y de su padre, Octavio Ignacio Díaz, quienes habrían muerto en manos de agentes de la policía estatal de Aragua el 6 de enero en circunstancias sospechosas.

495. El 27 de mayo de 2003, la Representante Especial envió un llamamiento urgente con respecto a la presunta intensificación de actos de intimidación contra los integrantes del **Comité de Familiares de Víctimas del 27 de Febrero** (COFAVIC), y la directora ejecutiva de la organización, **Liliana Ortega**. Según la información recibida, los días 21 y 22 de mayo de 2003 COFAVIC habría recibido varios correos electrónicos en los que se amenaza a su personal y a su directora acusándolos de traición por documentar presuntas violaciones de los derechos humanos que habrían sido cometidas el 11 y el 13 de abril de 2002, así como presuntas violaciones ocurridas en el Estado de Falcón. El 27 de noviembre de 2002, la Corte Interamericana de Derechos Humanos adoptó medidas provisionales y requirió al Estado que mantenga a los peticionarios informados de las medidas e investigue los hechos denunciados. El 21 de febrero de 2003, la Corte habría declarado que el Estado no había implementado efectivamente las medidas provisionales. Según la información recibida, la Sra. Liliana Ortega habría recibido protección insuficiente de la Policía Metropolitana y el Estado no habría procedido a la investigación judicial de las presuntas amenazas. Se teme que el presunto incremento de actos de intimidación contra COFAVIC esté relacionado con el trabajo que realiza la organización, desde hace 14 años, en favor del esclarecimiento de presuntos crímenes de carácter político y de ejecuciones que habrían sido cometidas por grupos parapoliciales en varios Estados de la República de Venezuela.

Comunicaciones recibidas

496. Por carta fechada el 18 de diciembre, el Gobierno informó a la Representante Especial respecto al caso de **Enmary Cava** y sus familiares **Dinorah María Díaz Loreto, Jairo Alexis Díaz Loreto, Bladimir Díaz, Miguel Díaz Loreto y Alexandra Gualdron**. Confirmó que en fecha 26 de mayo de 2003 falleció Enmary Cava por la herida grave por arma de fuego, presuntamente causada por funcionarios policiales. En fecha 28 de mayo una comisión por la Dirección de Protección de Derechos fue asignada a investigar el caso y la audiencia preliminar se realizó el 7 de agosto. En ella, el Juzgado Quinto en funciones de Control del Estado Aragua admitió en su totalidad la acusación y las pruebas consignadas por la Fiscal contra seis funcionarios de la policía por estar involucrados en los hechos denunciados. La investigación se encontró a la fecha en fase preparatoria. El Gobierno informó también de que la Fiscalía Superior solicitó medidas de protección ante el Tribunal de Control a favor de los ciudadanos

Dinorah María Díaz Loreto, Jairo Alexis Díaz Loreto, Bladimir Díaz, Miguel Díaz Loreto y Alexandra Gualdron.

497. Por cartas de fechas 18 de julio y 15 de septiembre, el Gobierno informó al Representante Especial respecto al caso de COFAVIC, y la directora ejecutiva de la organización, **Liliana Ortega**. Informó que con fecha 26 de abril 2002, la Dirección de Protección de Derechos Fundamentales, a requerimiento hecho por La Corte Interamericana de Derechos Humanos, llevó a cabo una investigación de los actos de intimidación y las amenazas recibidas por los miembros de la organización nombrada. Fueron comisionados los fiscales del ministerio público 24 a nivel nacional y 44 del área metropolitana de Caracas y los abogados Rayiza Rodríguez e Inés Herrera, y esos mismos libraron oficios, entre otros, a la Dirección General de los Servicios de Inteligencia y Prevención (DSISP), la Comandancia General del Cuerpo de Bomberos del Este y la Dirección General de la Policía Metropolitana. El Gobierno afirmó que, por información solicitada de la Policía Metropolitana se pudo confirmar que en pleno cumplimiento de las medidas provisionales requeridas por la Corte Interamericana de Derechos Humanos, con fecha 12 de julio de 2003 se estaba prestando un servicio de protección, tanto a los miembros como a la sede de COFAVIC y de los reportes policiales se evidencia que hasta la fecha no se habían producido hechos irregulares durante la ejecución de las mismas.

Observaciones

498. La Representante Especial quisiera agradecer las respuestas recibidas del Gobierno y las acciones tomadas por las autoridades a favor de los defensores de derechos humanos y sus familiares.

Viet Nam

Communications sent

499. On 8 January 2003, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, transmitted an urgent appeal regarding **Nguyen Khac Taon**, who was allegedly sentenced on 20 December 2002 to 12 years in prison and three years probationary detention by the People's Court in Hanoi. According to our information, his conviction and sentencing might be related to the assistance he gave to farmers' representatives in drafting petitions to the National Assembly and to the Government relating to recent farmers' and peasants' demonstrations in Hanoi protesting against confiscation of land by the State. It is also reported that the criminal proceedings brought against Nguyen Khac Taon may have been related to his sharing of information about these demonstrations and protests, via the Internet, with Vietnamese human rights groups overseas. It is reported that Nguyen Khac Taon was charged with "espionage" (article 80 of the Vietnamese Criminal Code). The trial was reportedly closed to the public. According to the information received, his lawyer, Tran Lam, was able to meet his client only twice before the trial (on 16 and 19 December 2002), and was not allowed to speak to him in private. Nguyen Khac Taon is currently detained in the B14 (Thanh Liet) Prison near Hanoi. According to the information received, Taon's mother, Tran Thi Quyet, has been permitted to visit her son only once since his arrest.

500. On 5 August 2003, the Special Representative, together with the Special Rapporteur on the question of torture, transmitted a letter of allegation regarding the cases mentioned below.

501. **Y-Phan Buon Krong, Y-Be Nie, Y-Pen Buon Ya, Y-Glen Buon Krong and Y-Gun Hwing**, aged 29, all Montagnards Degars from the hamlet of Buon Cuor Knia, district of Buon Don, Dak Lac Province, were reportedly arrested on 24 February 2003 on suspicion of practising Christianity, supporting the Montagnard Foundation, an indigenous rights organization, and gathering names of Degars willing to join the Transnational Radical Party, a non-governmental organization in consultative status with the United Nations. It is reported that all of them were handcuffed and severely beaten with clubs and rocks in front of their relatives until they fell unconscious. Security forces allegedly attempted to cripple Y-Pahn Buon Krong and Y-Glen Buon Krong by repeatedly smashing their knees with a rock. The five men are believed to have subsequently been taken to the prison at Buon Don District. The names of the alleged perpetrators are known to the Special Rapporteur and the Special Representative.

502. **Y-Nen Buon Ya and Y-Ne Buon Ya**, both from the district of Cu Jut, Dak Lac Province, were reportedly arrested by security officials on 28 January 2003 on suspicion of supporting the Montagnard Foundation and gathering names of Degaris willing to join the Transnational Radical Party. They are believed to have been beaten and subjected to electric shocks while in prison in the district of Cu Jut.

Communications received

503. By letter dated 12 March 2003, the Government responded to the urgent appeal regarding the case of **Nguyen Khac Toan**. The Government informed the Special Representative that the arrest of Mr. Nguyen Khan Toan was unrelated to the assistance he had given farmers and was in fact related to his acts of espionage which violated article 80, paragraph 1, of the Criminal Code of Vietnam. The Government added that Mr. Nguyen Khan Toan had a previous criminal record and had been prosecuted for similar crimes in the past. The Government also assured the Special Representative that the trial of Mr. Nguyen Khac Toan had been carried out in public on 20 December by the Hanoi People's Court in full accordance with the Code of Criminal Procedures of Vietnam and that he had been guaranteed the right to legal defence.

504. By letter dated 18 November 2003, the Government responded to the urgent appeal sent by the Special Representative on 5 August regarding **Y-Phan Buon Krong, Y-Be Nie, Y-Pen Buon Ya, Y-Glen Buon Krong, and Y-Gun Hwing**. The Government informed the Special Representative that inquiries were being conducted into the aforementioned cases and that information would be provided as soon as it became available.

Observations

505. The Special Representative thanks the Government for its replies.

Zimbabwe

Communications sent

506. On 23 January 2003, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture, transmitted an urgent appeal concerning the Amani Trust, a registered Zimbabwean non-governmental organization providing services for the rehabilitation of victims of human rights violations, particularly torture and institutionalized violence, and conducting human rights training and education programmes, particularly within health professions. It is part of the International Rehabilitation Council for Torture Victims. According to information received, allegations were reportedly made in the State media suggesting that the organization has participated in violent attacks in Kuwadzana. Information received also suggests that the Amani Trust offices may be the target of a firebombing or other form of attack in the near future.

507. On 17 September 2003, the Special Representative, in conjunction with the Special Rapporteur on the question of torture, transmitted a letter of allegation regarding the following two cases.

508. **Tawanda Hondora**, Chairman of Zimbabwe Lawyers for Human Rights (ZLHR), was reportedly assaulted by a large group of ZANU-PF supporters at Sadza Growth Point on 7 April 2001. Tawanda Hondora had been investigating allegations of intimidation and assault against witnesses in a court hearing challenging the results of the parliamentary election in Chikomba District, Mashonaland East Province. It is reported that after the alleged assault, he was taken to Sadza Police Station, where police officers allegedly beat him further, searched him and interrogated him about his political affiliation. It is also reported that when the other two lawyers arrived to file a complaint, all three were held for almost three hours while all police officers present pointed rifles loaded with live ammunition at the men. According to the information received, after the incident, Tawanda Hondora immediately filed a complaint at the Harare Central Police Station about being assaulted by police officers. Later in June 2001, he reportedly filed a civil suit against the Zimbabwe Republic Police. As far as the Special Rapporteur and the Special Representative have been informed, the police have taken no further action to discipline those officers allegedly involved in the assault.

509. **Gabriel Shumba**, former president of the Zimbabwe Congress of Student Unions, a lawyer and member of the Zimbabwean Human Rights NGO Forum, was reportedly arrested on 14 January 2003. He was allegedly denied access to legal representatives until a court order was issued during the night of 15 January 2003. It is alleged that the following day, when he appeared before a judge, it was claimed that he had been beaten, subjected to electric shocks and forced to swallow urine and another noxious liquid while being interrogated by the police about an arson attack on a government bus on 14 January 2003. On 17 January 2003, Gabriel Shumba reportedly gave further details in court of his own alleged subjection to electric shocks and other forms of physical ill-treatment at the hands of the police. Gabriel Shumba was allegedly forced while in detention falsely to confess to several crimes. He has reportedly been charged along with his co-detainees with attempting to overthrow the Government under section V of the Public Order and Security Act. Concern has been expressed that Gabriel Shumba may have been targeted because of his human rights activities. In particular, it is believed that he may have been targeted because of his past work as a student activist and because he reportedly provided legal counsel to a member of the opposition, Job Sikhala, at the time of his arrest.

510. By letter dated 26 September 2003, the Special Representative transmitted a further urgent appeal concerning the situation of Amani Trust, an NGO that provides medical and psychological services to victims of political violence and torture. The Special Representative sent an urgent appeal on 23 January 2003 on the situation of this NGO. According to the information received, on 13 November 2002, the Government reportedly published a list of NGOs alleged to pose a threat to national peace and security. Amani Trust is reported to be included in this list. On 13 November 2002, the Minister of Justice, Legal and Parliamentary Affairs, allegedly accused the Armani Trust of destabilizing the country. On the same day, the Minister of Public Service, Labour and Social Welfare reportedly told Parliament that organizations such as Amani Trust which are not registered under the Private Voluntary Organizations (PVO) Act would be forced to close their offices or face arrests.

511. By letter dated 26 September 2003, the Special Representative of the Secretary-General on the situation of human rights defenders, in conjunction with Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, transmitted an urgent appeal concerning **Jenni Williams**, leader of Women of Zimbabwe Arise (WOZA), a grass-roots organization dedicated to encouraging the empowerment of women towards leadership roles in society, and 47 other members of the same organization. According to the information received, on 24 July 2003, Jenni Williams and 47 other members of WOZA, having handed a letter of protest at the Public Order and Security Act (POSA) to the Senior Prosecutor for Bulawayo outside Tredgold Building, allegedly marched through Bulawayo. Jenni Williams had reportedly organized the protest. It is alleged that riot police arrested Jenni Williams, and that the 47 other women were arrested when they opted to be taken with Jenni Williams. While in detention for two days, the women were reportedly interrogated. During this time, they allegedly had limited access to food. The women were reportedly charged under POSA with "participating in an illegal gathering". In addition, Jenni Williams was allegedly charged, under section 17 of POSA on offences against public order, with organizing the march.

512. By letter dated 26 September 2003, the Special Representative of the Secretary-General on the situation of human rights defenders, in conjunction with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, transmitted an urgent appeal concerning **Philimon Bulawayo**, a photographer for the *Daily News* newspaper, and **Gugulethu Moyo**, a lawyer and Corporate Affairs Director for Associated Newspapers of Zimbabwe. On 19 February 2003, it is alleged that while preparing to take photographs of a food queue at a Harare supermarket, Philimon Bulawayo was assaulted by soldiers. He was then reportedly handcuffed and taken to the Harare central police station where he was allegedly beaten again by police officers. He was reportedly released the same day without charge and it is reported that his camera, which had allegedly been confiscated, was returned to him. On 18 March 2003, while covering a stay-away coordinated by MDC in Budiro, Harare, Philimon Bulawayo was allegedly arrested again. Gugulethu Moyo was also allegedly arrested when she tried to secure his release from Glen View Police Station. Philimon Bulawayo and Gugulethu Moyo were allegedly severely beaten at the station by the wife of an army commander and a male colleague. The police allegedly stood by and watched. On 19 March 2003, Philimon Bulawayo and Gugulethu Moyo were reportedly transferred to Harare Police Station. According to the information received, they were reportedly not allowed access to medical treatment despite allegedly having been severely beaten, and were reportedly released without charge on 20 March 2003.

513. By letter dated 7 October 2003, the Special Representative transmitted an urgent appeal concerning the arrest and torture of **Raymond Majongwe**, Secretary- General of the Progressive Teachers' Union of Zimbabwe (PTUZ). This case was already the subject of an urgent appeal on 18 October 2002 by the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the right to education and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention. According to the information received, on 9 October 2002, Raymond Majongwe was arrested under POSA for disrupting classes and threatening teachers for not participating in a strike for wage increases he had reportedly organized on 8 October 2002. During his alleged detention until 11 October 2002, Raymond Majongwe was allegedly physically maltreated. Raymond Majongwe was allegedly re-arrested on 16 October 2002 for attempting to force teachers at Harare schools to join the strike. He was reportedly taken to Harare Central Police Station, from there to Chitungwiza Police Station, and finally to a place outside the town, where he allegedly received electric shocks and police allegedly ordered him to end the strike, not to make any statement to the press and to disband PTUZ. On 21 October 2002, he was reportedly released, after the court allegedly found that the State had failed to make its case against him. He was reportedly summoned to reappear in court on 25 October, when his hearing was reportedly postponed to 8 January 2003.

514. By letter dated 9 October 2003, the Special Representative, in conjunction 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 alleged arrest and detention of **Lovemore Matombo** and **Wellington Chibebe**, respectively President and Secretary-General of the Zimbabwe Congress of Trade Unions (ZCTU), and of **Raymond Majongwe**, Secretary- General of PTUZ, the alleged injury of **Thabitha Khumanko**, a member of ZCTU women's advisory council, and the alleged arrest of 41 demonstrators in Harare. According to the information received, on 8 October 2003, Lovemore Matombo and Wellington Chibebe were allegedly arrested along with at least 41 trade unionists during a national protest against high taxation, high cost of living, transport problems and violations of trade union rights. They were allegedly detained in an unknown location. Raymond Majongwe was allegedly detained separately from other demonstrators in Harare, in solitary confinement. Physical force was allegedly used against demonstrators in Central Harare and Bulawayo. Thabitha Khumanko was allegedly injured along with several ZCTU leaders during demonstrations in Bulawayo. In addition, according to the information received, of the 41 detainees in Harare, it is reported that 21 paid fines and were released on 8 October 2003, while the remaining 20 were released but reportedly refused to pay fines on the grounds that they were conducting legitimate trade union action. These 20 people were allegedly requested to report to the police at 10 a.m. on 9 October 2003, under a charge of breach of POSA. **Lovemore Matombo** and **Wellington Chibebe** were released the following day and required to pay a fine.

515. On 17 October 2003, the Special Representative, in conjunction 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, transmitted an urgent appeal regarding an alleged attack against **Beatrice Mtetwa**, a council member of the Law Society of Zimbabwe, who frequently takes up human rights and press freedom cases. On 1 October 2003, an attempt was allegedly made to break into Beatrice Mtetwa's car. On 12 October

2003, Beatrice Mtetwa was allegedly attacked in her car and had a number of personal items stolen. On their arrival, the police allegedly accused her of driving while intoxicated with alcohol and reportedly took her to Borrowdale Police Station. On the way to the police station, Beatrice Mtetwa was allegedly beaten by the officers. For three hours while in custody at the police station, she was reportedly also continuously beaten, at one point, strangled. Despite the alleged accusation of intoxication, the police officers involved reportedly refused Beatrice Mtetwa's request that she be given a breathalyser test. She was reportedly refused medical treatment for her injuries. On 16 October 2003, Beatrice Mtetwa reportedly returned to the police station and presented her charge of assault against the police officer in charge. Concern has been expressed that Beatrice Mtetwa may have been targeted because of her human rights work.

516. By letter dated 28 October 2003, 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 appeal concerning **Andrew Meldrum**, a US national, official resident in Zimbabwe, a journalist with the UK-based newspaper, *The Guardian*, and an active member of Amnesty International, who has worked at reporting on human rights abuses with numerous NGOs in Zimbabwe. His case was already the subject of an urgent appeal on 2 May 2002 by the Special Rapporteur on the promotion of the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention. According to the information received, on 15 June 2002, Andrew Meldrum was reportedly tried under section 80 of the Access to Information and Protection of Privacy Act (AIPPA) on charges of "abusing journalistic privilege by publishing a falsehood". The accusation was allegedly connected with his report regarding an alleged beheading of a woman by ZANU-PF supporters. A Harare court allegedly found him not guilty of "intending to publish falsehoods" and he was reportedly acquitted on 15 July 2002. On 17 July 2002, the High Court in Harare reportedly rejected an application by the Ministry of Home Affairs to deport Andrew Meldrum, and questioned the Supreme Court on the constitutionality of the Ministry's action. On 7 May 2003, Zimbabwean immigration officials reportedly raided Andrew Meldrum's house in Harare in his absence and allegedly refused to show any legal identification to Andrew Meldrum's wife or lawyer, who were present at the time. On 13 May 2003, Andrew Meldrum reportedly went to the offices of the Department of Immigration accompanied by his lawyer to find out the grounds of the reported raid. The authorities reportedly did not give a direct answer, and allegedly ordered Andrew Meldrum to surrender his passport. On 16 May 2003, Andrew Meldrum reportedly returned to the immigration offices. He was then allegedly told that he would remain in custody until he was out of the country in spite of the fact that his lawyer reportedly presented immigration officials with court orders against his deportation. Andrew Meldrum was then allegedly escorted out of the office by immigration officials and police, driven to the airport and detained for over 10 hours. He was then allegedly forcibly placed on an Air Zimbabwe flight to London. On 11 June 2003, his wife reportedly left Zimbabwe under an alleged threat of expulsion for being married to Andrew Meldrum, although her residence permit was reportedly independent of their marriage.

517. On 27 October 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 Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding the reported arrest in Harare on 22 October 2003 of about 400 activists of the National Constitutional Assembly (NCA), a network of non-governmental organizations, including the

Chairman of NCA, **Lovemore Madhuku**. According to information received, NCA organized a peaceful demonstration in Harare, calling for democracy and for a people-driven Constitution to replace the 1978 Constitution, which was drafted before Zimbabwe's independence. The demonstration was reportedly attacked by members of the police force, and it is alleged that the demonstrators were seriously beaten up by the police, arrested, and taken to the Harare Central Police Station, where they reportedly were denied access to their lawyers. It is also reported that during the demonstration, **Blessing Zulu** and **Newton Spicer**, respectively journalist with the *Zimbabwe Independent* and free-lancer, were arrested while they were covering the demonstration. Their lawyers were reportedly denied access to them, and it was alleged that they were also threatened with incarceration. It was reported that the majority of the NCA members who had been arrested were allegedly made to pay depository fines on 23 October 2003 under the Miscellaneous Offences Act (MOA) and thereafter reportedly released. The NCA leader, Dr. Lovemore Madhuku, reportedly refused to pay the fine, reportedly resulting in the police laying charges against him of contravening section 24 (6) of POSA, which criminalizes the organizing of a demonstration without notifying the police.

518. On 6 November 2003, the Special Representative sent an allegation letter to the Government concerning following cases below.

519. According to the information received, on 13 September 2002, the Ministry of Public Service, Labour and Social Welfare reportedly published a notice in a newspaper. This notice reportedly warned NGOs that failure to register with the Ministry through the High Court in accordance with section 6 of the Private Voluntary Organizations (PVO) Act of 1967 meant they were at risk of prosecution, arrest and detention for up to two months under section 25 of the PVO Act. Concern was expressed that the requirement that organizations cease to operate if they are not registered under the PVO Act contradicts existing Zimbabwean law, under which it is it reportedly legal to register and operate as a trust with the Registrar of Deeds without having to register with the High Court. Additional concerns have been expressed that the High Court does not have a legal mechanism to undertake such a registration. It has further been alleged that section 9 of the PVO Act sets out a lengthy and cumbersome registration process. Concern has been expressed that the timing of the decision by the Government to enforce the PVO Act may represent an attempt at controlling the activities of human rights NGOs.

520. The Zimbabwe Association of Doctors for Human Rights (ZADHR) and the Amani Trust have reportedly been the victims of a campaign to discredit their human rights work. According to the information received, on 20 June and 17 August 2003, two articles published in a reportedly government-controlled Zimbabwean press outlet allegedly stated that ZADHR had been working to misrepresent victims of common crimes as victims of government- and Zanu-PF- sponsored violence. The 17 August article reportedly claimed ZADHR was being used as an instrument for turning the Zimbabwe Medical Association (ZIMA) into an organ of opposition politics in Zimbabwe. ZADHR is an organization whose work focuses on documenting human rights abuses and their effects on victims, on advocating for human rights victims and on uncovering cases of doctors using their medical skills to assist in torture. On 20 June 2003, an article reportedly published by the same media outlet allegedly described the Amani Trust as an anti-Government NGO working to topple the current regime. The Amani Trust, a non-political organization, provides services for the rehabilitation of victims of human rights violations, particularly torture and institutionalized violence, and conducts human rights training and

education programmes, particularly within the health professions. It is part of the International Rehabilitation Council for Torture Victims.

521. On 26 November 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 appeal regarding reports that up to 100 trade union and human rights defenders had been arrested on 18 November 2003 throughout the country (approximately 50 in Harare), allegedly in order to prevent them from staging a protest against alleged human rights abuses and the economic crisis in Zimbabwe. According to information received, **Lovemore Matombo** and **Wellington Chibebe**, respectively President and Secretary-General of the Zimbabwe Congress of Trade Unions (ZCTU), were among those arrested. It was reported that Mr. Matombo and Chibebe remained in custody for two days, while most of those arrested in other parts of the country were released, and that they were charged under section 7 (b) of POSA. It was also reported that **Andrew Moyse**, director of the Media Monitoring Project of Zimbabwe, and seven other leaders of civic organizations, were arrested during the 18 November demonstration organized by ZCTU, and were detained at the Harare Central Police Station, awaiting trial. Finally, reports indicated that during the demonstration, riot police apprehended **Shadreck Pongo**, a photojournalist with the newspaper *Standard*, while he was covering the demonstration, and severely beat him in a police truck. The police also reportedly destroyed his camera, and dumped the journalist at the city's periphery. He was then taken to the Harare Avenues Hospital.

Communications received

522. By letter dated 13 October 2003, the Government responded to the communication sent on 9 October 2003 regarding the arrest of trade unionists. The Government confirmed that approximately 55 trade unionists, including the ZCTU top leaders, had been arrested on 8 October 2003. It informed the Special Representative that they had appeared in court on 9 October 2003 and were released after paying fines for having breached POSA by calling for a demonstration without clearance from the relevant authorities.

523. By letters dated 29 October and 1 December 2003, the Government responded to the urgent appeal of 27 October 2003 regarding the arrest of **Dr. Lovemore Madhuku** and other NCA activists on 22 October 2003. The Government indicated that Mr. Madhuku was currently on bail. Contrary to reports, the Government informed that Mr. Madhuku was allowed access to his lawyers, that his detention was not arbitrary and that due process had been observed in the proceedings against him. Concerning the cases of **Blessing Zulu** and **Newton Star**, the Government considered that the characterization of POSA in the allegation as "repressive" is unjustified, unwarranted and objectionable. The Government stated that it is not a crime for the police to remind a person who breaks the law that he or she risks going to prison. The Government further questioned the habit of the Special Representative and the Special Rapporteur of sending communications on issues that fall under the responsibility of the Government of Zimbabwe and perceives the communications as harassment that prevents the Government from discharging its responsibilities. The Government also reiterated that the laws it applies were duly passed by Parliament for the simple purpose of maintaining peace, order and security to the benefit of every citizen. The Government also underlined that the Constitution allows peaceful demonstrations, which are subjected to certain limitations, as set out in POSA. In this case, NCA members had failed to notify the police of the march. The NCA activists arrested

were charged with the lesser charge of contravening the Miscellaneous Offences Act. Out of the 200 activists arrested, all but one paid the fine imposed, and were released. Lovemore Madhuku refused to pay the fine, as he was contesting having committed an offence, and decided to go to court. He was released on bail, and the case was pending at the time the response was sent. .

524. By letter dated 3 November 2003, the Government responded to a joint urgent appeal sent by the Special Representative on 28 October 2003 acknowledging the deportation of **Andrew Meldrum** from Zimbabwe by the Department of Immigration. The Government informed that Mr. Meldrum had conducted himself in a manner inconsistent with his residence permit by writing false articles clearly designed to cause panic and despondency among the citizens of Zimbabwe. The Government also reported that contrary to the reports received by the office, Mr. Muldrum's wife left Zimbabwe willingly to join her husband.

525. By letter dated 5 November 2003, the Government responded to two joint urgent appeals one of which was sent on 17 September 2003 by the Special Representative and the other on 16 September 2003 regarding the alleged assault of **Tawanda Hondora** and the arrest of **Gabriel Shumba**. In a memorandum from the Zimbabwe Republic Police, the Government informed the Special Representative that it was difficult to respond to the document regarding Tawanda Hondora, since it did not specify the nature of the complaint and the location where the alleged harassment occurred. Concerning the arrest of Gabriel Shumba, the Government provided specific information stating that Gabriel Shumba was charged with inciting violence and seeking to overthrow the Government through unconstitutional means. Further details were provided in the memorandum from the Zimbabwe Republic Police, who stated that they had recovered a document authored by Gabriel Shumba encouraging the looting and destruction of property during the MDC mass action and that at the time of the arrest of Gabriel Shumba he was celebrating the torching of a bus valued at Z\$90million by the MDC supporters.

526. By letter dated 12 November 2003, the Government responded to the communication sent by the Special Representative on 16 October 2003 regarding the case of **Beatrice Mtetwa**. In a communication from the Commissioner of the Zimbabwe Republic Police, details of the incident on 12 October 2003 were provided. According to the information, Beatrice Mtetwa had lost control of her vehicle, as a result of which she went off the road and landed in a gully. When the police arrived at the scene, she told them she had been about to be carjacked. However, witnesses of the accident suggested that her claim was false. According to the police, her behaviour had been hostile and abusive and she had appeared drunk and for this reason was taken to Harare Central Police Station for a breathalyser test, and as the breathalyser was not working, she had to be transferred to Borrowdale Police Station where she was put under observation for three hours. Regarding the alleged altercation with a police officer, the Government stated that Beatrice Mtetwas had bitten a police officer on the cheek on three different occasions during the incident and for this reason, a police officer was pressing charges against her. It also stated that Beatrice Mtetwa was pressing charges against one of the officers and that an internal investigation was under way to establish the circumstances and the manner in which the police officers had handled the matter.

527. By letter dated 18 November 2003, the Government responded to the communication sent on 12 November 2003 regarding the Amani Trust. The Government stated that the Amani Trust no longer operated in Zimbabwe because it had not registered in accordance with the PVO

Act. The Government indicated that the PVO Act had been in existence since 1963, prior to the commencement of the activities of the Amani Trust in Zimbabwe and requires that all private voluntary organizations register with a board for accountability purposes. The Government stated that the aim of the registration procedure was to ensure that funds received by such organizations were used for the public benefit in accordance with the activities the organizations were registered to carry out. The Government stated that the Amani Trust had commenced its operations without registering despite the existence of clear legislation requiring registration. The Amani Trust had thus been operating illegally. The Government stated that as such the inclusion of the organization's name in any list was out of the question and that the justifiability of its closure could not be questioned. It further added that should the Amani Trust feel that the PVO Act was unconstitutional or infringed on certain rights, avenues existed in Zimbabwean law to challenge the validity of this Act.

528. By letter dated 25 November 2003, the Government responded to the communication sent by the Special Representative on the 6 November 2003. The Government stated that the PVO Act of 1967 was a valid statute under the Zimbabwean Constitution and that many NGOS had registered with the relevant authorities in fulfilment of the requirements stipulated and further, that no organization was exempt from registration. As regards ZADHR the Government stated that, contrary to the allegation made that it had been discredited by the authorities, the organization had effectively discredited itself by showing a video during the 2003 session of the Human Rights Commission of uniformed service officials in Zimbabwe committing human rights abuses which, according to the Government, had been stage-managed and purpose-produced by foreign news agencies in "secret" propaganda centres. Following the discovery of these centres, they were closed down. As regards the **Amani Trust**, the Government stated that it had failed to register as required by law and, therefore, was no longer a legitimate NGO. It further stated that the organization had posed a serious danger to public order in Zimbabwe by misrepresenting all events of violence as deliberate actions of the Government of Zimbabwe. The Government further stated that Zimbabwe upheld internationally observed human rights conventions and that any offending government officials were prosecuted and punished as appropriate under law.

529. By letter dated 1 December 2003, the Government responded to a joint urgent appeal sent by the Special Representative and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 27 October 2003, regarding the arrest in Harare on 22 October 2003 of about 400 activists of the National Constitutional Assembly (NCA), including the NCA Chairman, **Lovemore Madhuku**. The Government stated that in order to fulfil its duty as the custodian of public order and security it was required to legislate and regulate how and when peaceful demonstrations may take place. For this reason, the Parliament had enacted POSA. The Government informed that, under this Act, the organizer or convenor of a public demonstration was required to give the police four days' advance notice and that failure to do so was a criminal offence. NCA had therefore committed a criminal offence. Despite this, the police had decided to bring against the NCA activists the lesser charge of contravening the Miscellaneous Offences Act, an act which deals with minor infractions of the law under which those charged may choose to pay a fine or appear before a magistrate's court. Of the 200 NCA members still arrested, all but one had opted to pay fines and were accordingly released. NCA Chairman, Lovemore Madhuku had refused to pay the fine and elected to go to court. He was eventually taken to court and released on bail. The case was still pending.

Observations

530. The Special Representative welcomes the spirit of cooperation shown by the Government in replying to her communications. While welcoming the Government's clarifications on cases sent, she would like to reaffirm her legitimate concern with allegations of provisions restrictive of freedom of assembly, expression and association contained in POSA and PVO Act. She is particularly concerned about allegations of their use to prevent human rights defenders and NGOs from carrying out their work. She notes that many NGOs which have been performing human rights activities for a long time have been rendered vulnerable by such overly restrictive legislation. The Special Representative is deeply concerned about allegations of arrests, detention and torture of human rights defenders, in particular lawyers, trade unionists and journalists. She calls on the Government to take all necessary measures to ensure that the rights enshrined in the Declaration on human rights defenders are respected. She welcomes the willingness of the Government to discuss her renewed request for an invitation to conduct an official visit to the country.