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**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS,
INCLUDING THE RIGHT TO DEVELOPMENT**

Report of the Special Rapporteur on the right to education, Vernor Muñoz

Addendum*

Communications sent to and replies received from Governments

* Owing to its length, the present report is circulated as received.

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Introduction

1. The present addendum to the report of the Special Rapporteur on the right to education contains, on a country-by-country basis, summaries of general and individual letters of allegations and urgent appeals transmitted to Governments between 12 January 2007 and 29 February 2008, as well as replies received between 12 January 2007 and 15 April 2008. It also contains a summary of a communication received in 2006 which was not included in the previous communications report. Observations made by the Special Rapporteur have also been included where applicable. Letter of allegations and urgent appeals sent after 29 February 2008 as well as Government replies received after 15 April 2008 will be included in the Special Rapporteur's next communications report.
2. The Special Rapporteur receives information alleging violations of the right to education and related rights from national, regional and international non-governmental organizations, as well as intergovernmental organizations. The Special Rapporteur responds to information received and considered to be reliable on alleged violations of the right to education, by writing to the Government and others actors concerned, either together with other special procedure mandates or independently, inviting comment on the allegation, seeking clarification, reminding them of their obligations under international law in relation to the right to education and requesting information where relevant, on steps being taken by the authorities to redress the situation in question. The Special Rapporteur urges all Governments and other actors to respond promptly to his communications and, in appropriate cases, to take all steps necessary to redress situations involving the violation of the right to education.
3. The Special Rapporteur recalls that in transmitting allegations and urgent appeals, he does not make any judgement concerning the merits of the cases, nor does he support the opinion of the persons on behalf of whom he intervenes. The Special Rapporteur draws attention to the fact that the issues reflected in this addendum are not representative of the wide range of issues encompassed by the right on education.
4. Owing to restrictions on the length of documents, the Special Rapporteur has considerably reduced the details of communications sent and received. To the extent that his limited resources permit, the Special Rapporteur continues to follow up on communications sent and to monitor the situation where no reply has been received or where questions remain outstanding.
5. During the period under review, the Special Rapporteur transmitted 14 communications to the Governments of 12 countries: Colombia, Czech Republic, Iran, Israel, Kyrgyzstan, Morocco, Nigeria, Peru, Poland, Sri Lanka, Venezuela and Zimbabwe. At the time of submitting the present report the Special Rapporteur has received responses from the Governments of China, Colombia, Poland, Russian Federation, Slovenia, Venezuela and Zimbabwe.
6. Three responses to these communications were received and four replies to communications transmitted by the Special Rapporteur over the past years. The Special Rapporteur regrets that some Governments failed to respond and thanks those which took the time and made the effort to provide replies, which are reflected and summarized in the present report.

Replies from Governments

China

Communication received

7. By letter dated 26 December 2006, the Government replied to the communication sent by the Special Rapporteur on 6 October 2006¹ concerning the closing, in Beijing, of various schools for migrant children. The Government informed that following the process of economic and social development in Beijing, there is a steady annual increase in the number of migrant children of school-going age coming to the capital and receiving compulsory education. By September 2006, of the total population recorded under the household registration system in Beijing 900,000 were children of school-going age, while the number of migrant children of school-going age receiving compulsory education in the city had risen to 400,372 (a more than fourfold increase over the 2000 total of 98,000). In order to meet the education needs of children of school-going age in the migrant population, in 2002 Beijing city developed a broad strategy based on the principles that the Government should retain sole responsibility for education, with State sector schools continuing as the mainstay of the system, and that all those involved should combine efforts to ensure safe conditions in schools. Over the last few years, 400 million yuan renminbi have been allocated from the city budget in earmarked funding to support work in this area. Over the last two years, various Government bodies and institutions, including the Ministry of Education, have conducted verifications of the work being carried out in this area by the Beijing city authorities and have given a positive appraisal.

8. The Government further explained that even though, over recent years, Beijing's State-run schools have steadily continued to expand their enrolment of migrant children, the number of pupils enrolled at unlicensed private schools continues to grow and the situation is becoming increasingly unregulated. These unlicensed private schools have primitive operating conditions: the school buildings, fire prevention facilities and hygiene conditions present considerable risks. The Government expressed concern for the safety of the pupils and teachers, especially because some buildings of the unlicensed private schools are in state of dangerous dilapidation and would be extremely difficult to evacuate in case of emergencies. In addition, the vast majority of these schools fail to meet even the most basic educational requirements. Many teachers lack teaching qualifications and are not provided with the most basic teaching facilities and material. The Government affirmed that it is impossible to ensure any supervision over the policies applied by the schools, the direction which they follow in their work and the quality of their services, as they lie outside the current system for the administration of education.

9. The Government also informed that in June 2006, the Beijing city authorities launched a programme to inspect and take remedial action to enhance safety arrangements in unlicensed private schools. This action was undertaken in order to implement the Compulsory Education Act and to ensure safety of teachers and pupils. The idea is to redistribute pupils from some unlicensed schools to licensed State-run schools or community-run schools and to bring some of these private schools up to standard, which means eliminating safety hazards. The privately run

¹ See A/HRC/4/29/Add.1, paras. 19-25.

schools presenting serious safety risks that are difficult to overcome have to be closed down. The Government expressed concern for the children affected by the closing of those schools and is adopting measures in order to guarantee that these pupils receive proper schooling. Projects of refurbishing and expanding State-run schools are being conducted so that they can absorb all redistributed pupils in the following school term. Many buildings were vacated by different city districts and made available free of charge for the operation of schools for migrants. It was reported that the city government has invested 80 million yuan renminbi to be used for the construction of new schools and for the renovation and refurbishment work in those unlicensed private schools that were kept open for not presenting safety risks.

10. Regarding the Weimenkou school in Shijingshan district, which is actually called Shuxia school, after an inspection that was carried out by the district construction committee and the fire prevention office, it was determined that the school presented considerable hidden safety hazards and could not run in proper conditions. Therefore, the school was closed down and the pupils were arranged to be enrolled in Hua-Ao school.

11. In relation to the alleged use of force by the police to close down the schools, the Government affirmed that the assistance of police officers from the public security system is never enlisted when the relevant district and county authorities take action to close down schools exhibiting safety hazards. Nevertheless, there are a few schools where conflicts have arisen over the issue of fee refunds between the school operators and parents. Consequently, the task of restoring and maintaining order has to be performed by municipal officials and their assistants.

12. Finally, the Government provided explanations to refute that the closure of the mentioned schools led to a large number of pupils being deprived of their right to education. Even though the number of migrant children is increasing each year, the Government stressed that the Beijing city government and the Beijing municipal party committee attach high priority to the issue of education of migrant children and are constantly improving the arrangements to ensure they are provided with education. According to some numbers and figures presented by the Government, the rights of migrant children of school-going age to receive education are being fully upheld in Beijing.

Observations

13. The Special Rapporteur would like to thank the Government for its extensive and informative reply.

Colombia

Comunicación enviada

14. El 17 de Agosto de 2007, el Relator Especial envió una comunicación en relación a la reforma constitucional aprobada por el Congreso al Sistema General de Participaciones así como al también aprobado Plan Nacional de Desarrollo, los cuales supuestamente atentarían contra la realización del derecho a la educación.

15. Según la información recibida, el 12 de Junio de 2007 se aprobó la reforma constitucional al Sistema General de Participaciones, el cual determinaba las asignaciones de recursos para la educación, la salud y el saneamiento básico. De acuerdo con la Constitución Colombiana de 1991, un porcentaje de los ingresos corrientes de la nación deberían ser cedidos a los Departamentos, Municipios y Distritos para el financiamiento de la educación y de la salud. Por cada peso recaudado en impuestos, los Departamentos recibirían el 21.5% mientras los Municipios el 22%, lo cual implicaba que el incremento de los ingresos a nivel nacional se veía directamente reflejado en el incremento de los ingresos de las entidades territoriales. No obstante, el Acto Legislativo 01 de 2001 modificó dicha norma constitucional para reducir las transferencias a las entidades territoriales, lo que repercutió negativamente sobre los recursos destinados a la educación. Según la información recibida, a consecuencia de la reducción de la asignación de recursos por alumno que se produjo a través del Acto Legislativo 01 de 2001, el sector educativo sufrió un menoscabo considerable, en especial por el aumento de los índices de deserción escolar, el deterioro de la calidad de la educación entre otros.

16. Conforme a la información recibida, a través de la reforma constitucional se busca prorrogar la vigencia del Acto Legislativo 01 del año de 2001 - cuya vigencia terminaría en el año 2008 - y así evitar el regreso al sistema originalmente planteado en la Constitución de 1991.

17. El Relator Especial demostró su aprecio respecto a las negociaciones mantenidas entre el Gobierno y el sector educativo durante los días anteriores a la aprobación de la reforma a partir de las cuales el Gobierno aceptó incrementar en cierta medida los porcentajes de participación dedicados a la educación. Entretanto, el Relator Especial expresó su preocupación por el hecho de que la distribución de recursos estipulada en la reforma no cubriría adecuadamente las necesidades del sector educativo. Además, recordó que el Gobierno debería aumentar el presupuesto destinado a la educación de manera que constituyera el 6% del PIB, tal como lo exigen los estándares internacionales en la materia.

18. También se informó que muchas manifestaciones de estudiantes, profesores y padres de familia fueron organizadas con el objetivo de protestar en contra de la reforma constitucional mencionada, así como por la adopción del Plan Nacional de Desarrollo, el cual establece en uno de sus artículos que la Nación y las universidades públicas nacionales concurrirán al saneamiento pensional de las mismas, lo que afectaría el patrimonio, el funcionamiento y la autonomía de las universidades públicas. Alegadamente, algunas de esas protestas fueron reprimidas de forma violenta.

19. El Relator Especial llamó la atención del Gobierno sobre el artículo 13 del Pacto Internacional de Derechos Económicos, Sociales y Culturales y solicitó al Gobierno una aclaración de los hechos mencionados, incluso de los supuestos abusos perpetrados por las autoridades durante las manifestaciones estudiantiles. Solicitó, asimismo, una explicación de cómo la reforma constitucional mencionada estaría de conformidad con los estándares internacionales en materia de asignaciones presupuestales mínimas para la educación. Información adicional sobre los efectos del Plan Nacional de Desarrollo sobre las universidades públicas también fue requerida.

Comunicación recibida

20. Mediante comunicación datada del 5 de Diciembre de 2007, el Gobierno contestó a la comunicación enviada por el Relator Especial el 17 de Agosto de 2007.

21. Por primero, aclaraciones fueron proporcionadas respecto a la reforma constitucional a las transferencias de la Nación al sector educativo. A través de la Ley 60 de 1993, la cual reglamentó los artículos 356 y 357 de la Constitución Política, se definió el monto de las transferencias a distribuir entre los departamentos, distritos y municipios para financiar los servicios sociales a su cargo y se establecieron las competencias para las entidades territoriales y la Nación. A los departamentos y distritos se les asignaría 24.5% de los ingresos corrientes de la Nación, de los cuales 60% se destinaría a la educación. A los municipios se les asignaría 22% de los ingresos corrientes de la Nación, de los cuales 30% se destinaría a la financiación de la educación.

22. El Acto Legislativo 01 de 2001 modificó el sistema de transferencias a las entidades territoriales mediante la creación de una bolsa de recursos denominada Sistema General de Participaciones (SGP). El Acto Legislativo 01 estableció que los recursos crecerían con la inflación causada más un incremento adicional que aumentaría en forma escalonada en el transcurso del período 2002-2008. En este sentido, el Acto Legislativo 01 aseguró a las entidades territoriales que sus transferencias no se verían afectadas por efectos negativos en el crecimiento de la economía y caídas en los ingresos corrientes de la Nación, al mismo tiempo que les garantizó un crecimiento real de los recursos.

23. La Ley 715 de 2001, que reglamentó el Acto Legislativo 01, reformó la estructura institucional de la educación en los entes territoriales, la distribución y asignación de los recursos, profundizó el proceso de descentralización, precisó las responsabilidades sobre la prestación del servicio educativo entre la Nación y los entes territoriales, fortaleció las instituciones educativas y aceleró el proceso de reorganización del sector educativo, entre otros. El objetivo fundamental de esta Ley fue crear las condiciones necesarias para el cumplimiento del derecho constitucional de una educación básica y media con calidad y cobertura universal. En cuanto a la distribución de recursos, la Ley 715 estableció que el 58.5% del total del Sistema General de Participaciones se destinaría al sector educativo. Estos recursos serían distribuidos entre las entidades territoriales para financiar el servicio público educativo mediante una asignación por alumno con base en criterios de población atendida y población por atender en condiciones de eficiencia y equidad.

24. El Gobierno informó que en el período 2002-2006 la matrícula educativa oficial se incrementó en 1.7 millones de alumnos nuevos, constituyéndose el Sistema General de Participaciones en la principal fuente de recursos de este crecimiento ya que financia aproximadamente el 91% de los costos de la prestación de los servicios educativos estatales. La deserción escolar disminuyó en 2% en el período 2001-2005 para todos los grados de educación formal, lo que demuestra que las reformas introducidas a la asignación de recursos al sector educativos no tuvieron un efecto negativo en la eficiencia del sistema educativo. Gráficos fueron presentados para demostrar que la calidad de los colegios ascendió durante el período de aplicación del Acto Legislativo 01.

25. Para financiar la prestación del servicio público educativo en los departamentos, distritos y municipios en los niveles de la educación preescolar, básica y media, en el área urbana y rural, el Gobierno Nacional ha transferido la suma de 53.8 billones de Pesos entre el período 2002-2007. Asimismo, la participación del gasto público en educación en el PIB se ha mantenido casi constante durante el período 2002-2007, acercándose a niveles del 5%, lo que deja a Colombia en una posición de ventaja en relación con otros países de América Latina y el Caribe.

26. El Gobierno enumeró diversos avances respecto a la situación del personal docente, directivo docente y administrativo de los cuales se puede destacar: el nuevo estatuto docente de 2002, el cual permite obtener mejor remuneración a los docentes con mayor formación académica; el nombramiento de docentes y directivos docentes mediante concurso de méritos y con los recursos garantizados para el pago de sus salarios; la cancelación de obligaciones y compromisos del servicio educativo y deudas por concepto de nivelaciones de cargos administrativos; la definición de plantas de personal de docentes y directivos docentes en función de la matrícula, lo que permitió mejorar la eficiencia en la distribución de los recursos humanos del sector educativo; la capacitación de docentes en diferentes áreas, tanto en el país como en el exterior.

27. El Gobierno también informó que según el Acto Legislativo 04 de 2007, por el cual se reformó los artículos 356 y 357 de la Constitución Política, el monto del Sistema General de Participaciones de los departamentos, distritos y municipios se incrementará tomando como base el monto liquidado en la vigencia anterior y que los recursos del SGP aumentarán de acuerdo con la tasa de inflación causada y la tasa de crecimiento real de la economía. Si la tasa de crecimiento real de la economía es superior al 4%, el monto destinado al SGP se incrementará de acuerdo con los puntos porcentuales de diferencia resultantes de comparar la tasa de crecimiento real de la economía y el 4%. Estos recursos adicionales se destinarán a la atención integral de la primera infancia y no generará base para liquidación del SGP en años posteriores. Además, el SGP tendrá un crecimiento adicional para el sector educación, cuya proyección es demostrada por el Gobierno a través de algunos gráficos. Tales recursos adicionales facilitarán el cumplimiento de las metas de cobertura y mejoramiento de la calidad educativa, el mejoramiento salarial de los docentes y el pago de deudas y nivelaciones salariales del personal administrativo. El Acto Legislativo 04 propone la adopción de la propuesta como transitoria a empezar en el 2008 hasta el 2016, así como la incorporación de una estrategia de seguimiento, monitoreo y control integral a la utilización de los recursos del SGP.

28. El Gobierno afirmó que los porcentajes de crecimiento son mayores a los que estableció el Acto Legislativo 01 de 2001. Con la propuesta del Acto Legislativo 04 de 2007, el Gobierno espera alcanzar una tasa de cobertura bruta para la educación básica en el año 2010 del 100%. Además, el Gobierno promoverá la política de educación inicial, que busca que los niños ingresen a los primeros años de educación con el aprestamiento necesario para disminuir las tasas de repitencia y deserción. El Gobierno también informó sobre los cupos que serán creados en educación inicial y básica. Asimismo, presentó la proyección de las inversiones requeridas para lograr la cobertura universal con calidad durante los años 2007-2016 así como su financiación.

29. En relación con el artículo 38 de la Ley del Plan Nacional de Desarrollo, por el cual se establece que la Nación y las universidades estatales del orden nacional concurrirán al saneamiento del pasivo pensional de las mismas, el Gobierno afirmó que tal artículo no vulnera la autonomía financiera de las universidades. Lo que busca el artículo en cuestión es una alternativa de solución para el saneamiento de los pasivos pensionales a través de la suscripción de convenios de concurrencia, en los cuales se definirán, entre otros, la forma de pago, el plazo y las condiciones para la cancelación de las deudas. El Gobierno informó que el Ministerio de Educación Nacional, juntamente con las universidades, se encuentra trabajando en la reglamentación del citado artículo.

30. Finalmente, el Gobierno comentó las actuaciones de la Fuerza Pública en el marco de las manifestaciones, observando que éstas deben desarrollarse dentro de los marcos normativos, legales y constitucionales. En el caso de que estos sean vulnerados existen los mecanismos de investigación y sanción, bajo el principio del debido proceso.

Observaciones

31. El Relator Especial quisiera agradecer al Gobierno de Colombia por su respuesta detallada en relación a la comunicación enviada. Sin embargo, el Relator Especial quisiera manifestar su preocupación al respecto por el hecho mencionado en su comunicación, de que la distribución de recursos estipulada en la reforma citada no cubriría adecuadamente las necesidades del sector educativo, y que el Gobierno debería aumentar el presupuesto destinado a la educación de manera que constituyera el 6% del PIB, tal como lo exigen los estándares internacionales en la materia. También el Relator Especial quisiera expresar su preocupación sobre el hecho de que algunas de las protestas estudiantiles mencionadas en su comunicación fueron reprimidas de forma violenta.

Czech Republic

Communication sent

32. On 10 May 2007, the Special Rapporteur, jointly with the Independent Expert on Minority Issues, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, sent a communication concerning living conditions in socially excluded localities in the Czech Republic, affecting mainly persons belonging to the Roma minority.

33. According to information received, a recent study conducted for the Ministry of Labour and Social Affairs of the Czech Republic identified 310 socially excluded Roma localities in the country, 35% of which have emerged in the last 10 years. Reportedly, these localities possess a considerably sub-standard quality of housing (i.e. flats of lower quality, unsatisfactory hygienic conditions, bad transport services, often on the outskirts of towns, etc.), which in turn affects negatively the quality of life and related human rights of these individuals, such as access to work, health care and education services. According to reports, over 50% of Roma inhabit bare-walled apartments, otherwise known as “apartments of the lowest quality”, into which people with outstanding rent are relocated. In some cities this number reaches as much as 90%.

34. Furthermore, it is alleged that Roma children do not receive the same standard of education as other pupils. According to the information received, they are segregated from regular schools in different ways. Firstly, they have separated classes in regular schools, secondly they attend schools with a bad reputation regarding the education's quality and finally more than a half of the population of Romani children attend schools for children with disabilities (zvláštní pomocná škola), now renamed as ordinary basic schools (základní škola). Moreover, it is reported that among the reasons why number of Romani children attend the special schools, there is that the diagnosis of mental capacity is carried out at an early stage (6 years old) and does not take into account children's ethnic and social background and that schools prefer to label them as children with mental disabilities, in order to obtain extra financial resources. This is worsened by the fact that the new Education Act N. 561/2004 establishes that aliens are obliged to prove the lawfulness of their stay at the Czech Republic at the beginning school attendance at latest. The headmasters of elementary and secondary schools can not enroll any foreign children without the document that proves their legal status in the country. In addition, Romani children are allegedly excluded from certain advantages allowed only to Czech and EU citizens, for example free educational services, such as counseling and accommodation facilities.

35. Even though it is acknowledged that the creation of Roma socially excluded localities arises from a mix of problems relating to high rates of unemployment and substandard education, it is alleged that they are often the result of racial discrimination and deliberate segregation policies within some municipalities. Reportedly, 90% of the municipalities where socially excluded communities are found do not have any concept or strategy of integration of Roma, while only 1% has an explicit one.

36. Furthermore, according to the information received, the system in place for providing public housing owned by municipalities is not transparent, and the criteria are often indirectly discriminatory (confirmation that the applicant has a clean criminal record; evidence that the applicant and members of his/her immediate family do not have any debts; and sometimes an employment criteria is used), which may result in disadvantaged Roma communities being unable to obtain adequate housing. This situation is reportedly aggravated by the attitude of some regional representatives towards issues of social exclusion, which applied consciously or unconsciously, would lead to the perpetuation of existing problems of those Roma localities, thus reinforcing their social exclusion and even their segregation.

37. As an illustration of this social exclusion, in the eastern town of Vsetín, reportedly in an attempt to solve the problem of 42 (mostly Roma) families living in a big house in the centre of town which was in critical condition, the local government decided to demolish the house and resettle the inhabitants. It is alleged that most of the resettlements were carried out late at night, and without the families having prior knowledge of the housing conditions they were moving into. Some of the families were resettled in new flats on the outskirts of the town; however, these flats are allegedly situated next to the former waste dump in an area which is full of toxic substances and they are cut from the centre by an industrial zone. Furthermore, it is reported that the flats were built out of metal containers used for shipping, and shortly after the families moved in mould appeared inside given that the flats have inadequate air ventilation and are overpopulated. According to the information received, the rest of the families were moved some hundreds miles away into houses that have been described by experts and local public officials as uninhabitable, given that there is no potable water, roofs are full of holes, rafters are rotting, and

the electricity distribution is unsuitable and even life-threatening. The former mayor of Vsetín has stated that: “We chose this solution in necessity only because we do not want hundreds of homeless Roma wandering around the town and being a nuisance to their fellow citizens”, which allegedly illustrates a process of social exclusion which is being applied in the Czech Republic. It was noted, in this regard, the results of a January 2007 poll conducted by the Sociological Institute of the Academy of Social Sciences of the Czech Republic, which reflect high levels of prejudice against Roma among the population in general.

Observations

38. The Special Rapporteur regrets not having received a reply from the Government regarding the above-mentioned communication.

Iran (Islamic Republic of)

Communication sent

39. On 7 June 2007, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a communication regarding the alleged harassment suffered by teachers in connection with protests against the Government related to their working conditions.

40. According to information received, many teachers, mostly members of local teachers' associations and of the National Council of Teachers' Associations, have been targeted since they have initiated a series of protests in March 2007, demanding the improvement of the salary scales and teachers welfare.

41. It is reported that hundreds of teachers have been arrested across the country, some of them several times, and in some cases subsequently released. According to the information received, on 7 April 2007, 45 teachers were arrested in Hamedan, including the entire board of the Hamedan Teacher's Association, which was afterwards banned by the authorities. On 12, 14, 16 and 17 of April, at least a dozen teachers were allegedly detained across the country in connection with these protests.

42. Moreover, it is also alleged that more teachers have been arrested during the demonstrations held on 2 May 2007, National Teacher's Day.

Observations

43. The Special Rapporteur regrets not having received a reply from the Government regarding the above-mentioned communication.

Israel

Communication sent

44. On 26 February 2008, the Special Rapporteur sent a communication regarding the Israeli Forces ban to travel outside Gaza Strip for students who have to travel to pursue their studies in universities and schools abroad.

45. According to information received, it is alleged that Israeli Forces had cut the Gaza Strip off from the outside world since 10 June 2007 by enforcing a complete closure on all the Strip's border crossing, especially Rafah International Crossing on the Egyptian Border. As a result of this ban approximately 7,500 persons are in uncertainty of having the opportunity to travel abroad for various purposes, including education.

46. According to the information received, in the period from 28 August through 18 September 2007, some students were allowed to travel outside the Strip through the Erez-al-Ojeh-Egypt route. During this period, Israeli Forces allowed 450 civilians to travel outside the strip in four groups. A fifth group consisting of 186 civilians who were previously approved for travel was returned to Gaza. According to the reports, on 16 December 2007 the Israeli Government agreed to let about 900 pilgrims travel through its territory en route to the annual Muslim pilgrimage to Mecca in Saudi Arabia. Since then, Israeli Forces refuse to allow any civilian to travel outside the Strip.

47. Approximately 2700 students of various education levels, studying abroad, were allegedly deprived of the right to pursue their education and are in risk of facing the negative consequences on their educational future. The students include 722 students in the graduate level and post graduate levels studying in Arab and international universities. In addition, approximately 2000 students studying in basic education level who spent their summer vacation in the Strip with their families are waiting to rejoin their schools with their apprehension over their educational future.

Observations

48. The Special Rapporteur regrets not having received a reply from the Government regarding the above-mentioned communication.

Kyrgyzstan

Communication sent

49. On, 18 May 2007, the Special Rapporteur, together with the Special Rapporteur on the question of torture sent a communication concerning the children's psychiatric hospital in Ivanovka village, Chuy region.

50. According to the information received, 27 children, out of which 80 percent are orphans who previously stayed in other state orphanages, are currently held there. They are not allowed to go outside sometimes for months in a row and look pale, emaciated and malnourished. The food is insufficient. Several of the children are not mentally ill, but detained simply because they had no papers or no guardians or because the personnel at another facility disliked their behaviour. Some of the children have been at the Ivanovka psychiatric clinic for 4 and more years.

51. It is alleged that corporal punishment is regularly used. The nurses punish the children by tying them to radiators or chairs for many hours. Sometimes they force them to sit down on the

floor, the hands bound behind their back and the feet tied together with the head between their knees. Another means of punishment is forcing the children to stand still for long periods with their hands tied behind their backs with short breaks during meals.

52. As a result half of the children have bruises and traces from the cords. The drug “Aminazin”, which has strong side effects, is regularly used as means of punishment. Although some children suffer from tuberculosis, they receive no medication and are not separated from the others. One 12 year old girl had a groin hernia and suffered from severe pain, but did not receive any treatment.

53. Finally, it is reported that there is no running water in the facility. The children drink the water from the same container in which they wash. All the children sleep in one overcrowded room. They have no access to education or any means of communication with the outside world. Being sent to Ivanovka psychiatric hospital is apparently being used to intimidate children in other orphanages in Chuy region.

Observations

54. The Special Rapporteur regrets not having received a reply from the Government regarding the above-mentioned communication.

Morocco

Communication envoyée

55. Le 30 Novembre 2007, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme a envoyé une communication concernant la situation de M. Ali Salem Tamek, membre du secrétariat et Président du Comité Préparatoire du Collectif des Défenseurs des Droits de l'Homme Sahraoui. M. Ali Salem Tamek avait aussi été l'objet d'un appel urgent envoyé par la Représentante Spéciale du Secrétaire Général concernant la situation des défenseurs des droits de l'homme le 28 octobre 2004.

56. Selon les informations reçues, M. Ali Salem Tarek se serait vu refuser l'inscription à l'Université Hassan II de Mohamedia alors même que titulaire du baccalauréat obtenu à Assa, au sud du Maroc, il aurait remis tous les documents nécessaires au titre de l'inscription. M. Ali Salem Tarek se serait entretenu avec le Doyen de l'Université qui lui aurait dit qu'une décision émanant de fonctionnaires haut-placés serait à l'origine de ce refus.

57. Des craintes ont été exprimées sur le fait que le refus d'inscrire M. Ali Salem Tamek à l'Université Hassan II de Mohamedia soit lié à ses activités de promotion et protection des droits de l'homme.

Observations

58. Le Rapporteur spécial regrette de n'avoir reçu de réponse du Gouvernement à la communication mentionnée ci-dessus.

Nigeria

Communication sent

59. On 4 September 2007, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on freedom of religion or belief sent a communication regarding the persecution of members of the Shia community in the Nigerian state of Sokoto.

60. According to information received, on 18 July 2007, Mr. Umar Danmashiyya, a Sunni cleric was shot while he was leaving his local mosque. The Shia community, which is a minority in the Nigerian state of Sokoto, has been collectively blamed for the killing of the Sunni cleric. Shia groups were attacked in residential areas by mobs carrying machetes. As of 21 August 2007, more than 70 homes have been destroyed, six Shia members have been murdered and more than 50 women and children are missing. Furthermore, the community's centre, clinic and schools were also destroyed. Subsequent to street fights, the police arrested and detained 115 members of the Shia community, including its leader Mr. Kasimu Rimin Tawaye. Allegedly, those acts were carried out by a combined force of federal military, state police and mobs under police protection who use this assassination to discriminate against the Shia community of Sokoto.

Observations

61. The Special Rapporteur regrets not having received a reply from the Government regarding the above-mentioned communication.

Peru

Comunicación enviada

62. El 11 de abril de 2007, el Relator Especial envió una comunicación sobre problemas en la implementación del derecho a la educación, las cuales atentan contra la realización de dicho derecho. Según las informaciones recibidas, a pesar de los progresos logrados, en especial gracias a las disposiciones establecidas en materia de educación por el Acuerdo Nacional suscrito en el año 2002 -en la décimo segunda política de Estado-, así como en diversas normas, planes y proyectos adoptados en los últimos años, tales como la Ley de Emergencia de la Educación, el Plan nacional de acción por la infancia y la adolescencia y el Proyecto educativo nacional, aún se está lejos de alcanzar los objetivos establecidos por dichos instrumentos y de cumplir las obligaciones internacionales asumidas por el Estado en materia de educación.

63. El Relator notó con satisfacción el alto índice de cobertura escolar existente en el Perú; no obstante, quisiera llamar la atención de su Excelencia sobre algunos problemas que han sido traídos a mi atención. Se me informa que más del 60% de niños/as menores de 6 años no tienen acceso a ningún tipo de educación. Igualmente, persistirían graves desigualdades en materia educativa, desigualdades que son tanto cuantitativas, como cualitativas. Así, existirían ciertos grupos de personas que en la actualidad no pueden ejercer su derecho a la educación de la misma manera que lo hace el resto de la población. Se trata de las personas que viven en condiciones de pobreza extrema, las niñas, adolescentes y mujeres, las personas que tienen una lengua materna

diferente al castellano, y los estudiantes de las instituciones de educación pública. Asimismo, según la información recibida, existiría una estrecha correlación entre los Departamentos donde existen altos niveles de pobreza y los lugares donde existen los más graves obstáculos a la realización del derecho a la educación.

64. De otra parte, se alega que los procesos de aprendizaje son reduccionistas y fragmentados. Se estaría dando prioridad a 3 áreas del conocimiento: comunicación integral, lógico matemática y valores, de las cuales en la práctica sólo se estaría enfatizando en las dos primeras, dejando así de lado las ciencias sociales. Según la información recibida, los rendimientos escolares están aún por debajo de los estándares internacionales, a pesar de las medidas tomadas en virtud de los preocupantes resultados de la evaluación PISA realizada en el año 2000. Además los currículos escolares no permitirían la salvaguarda de las diversas identidades culturales existentes, a pesar de la normatividad existente, según la cual la interculturalidad debe ser promovida en las instituciones educativas. Asimismo se alega que los currículos escolares no forman a los estudiantes para un adecuado ejercicio de la ciudadanía.

65. También se indica que no se ha dado cumplimiento a uno de los compromisos más importantes asumidos por el Estado en el marco del Acuerdo Nacional de 2002, compromiso que es por lo demás totalmente compatible con las normas internacionales de derechos humanos en materia de educación: la inversión en la educación de al menos un 6% del Producto Interno Bruto -PIB-. Según se me informa, hasta el momento la educación sólo alcanza un 3% del PIB. De esta manera, aún si existen avances en materia de políticas y decisiones públicas relativas a la educación, éstas quedarían en el papel por la falta de recursos económicos para implementarlas.

66. Asimismo, se alega que persiste una concepción educativa convencional que identifica la educación con un servicio y no con un derecho, lo que crea un ambiente propicio para su mercantilización y el uso de procesos didácticos inadecuados que incentivan una idea distorsionada sobre la eficiencia, eficacia y competitividad. Esto se suma al hecho de que no se habrían tomado las medidas necesarias para implementar el plan de acción establecido para la primera etapa del Plan Mundial de Acción para una Educación en derechos Humanos (2005-2007), el cual fue aprobado por la Asamblea General de las Naciones Unidas en el año 2004. En lo referente a la Década de la educación en Derechos Humanos, se informa que no existe una política consistente en materia de educación en derechos humanos, puesto que a pesar de que se han iniciado varios planes en este ámbito, en la práctica los programas no llegarían a toda la población. Además, se afirma que el hecho de que se haya incorporado el tema de los derechos humanos de manera transversal en el currículo escolar, no es suficiente para alcanzar los objetivos propuestos en la Década de la educación en Derechos Humanos.

67. Finalmente, se afirma que aún no existen políticas ni estrategias definidas respecto de importantes aspectos del derecho a la educación. En efecto, según la información recibida la cobertura y la calidad de la educación proporcionada a niños, niñas y adolescentes con discapacidades, aún dista de cumplir con los estándares establecidos por el derecho internacional de los derechos humanos. Igualmente, se indica que a pesar de algunos esfuerzos realizados en materia de descentralización de la educación, el proceso global de regionalización y municipalización del sistema educativo ha realizado muy pocos avances. En cuanto a la formación del magisterio, se me informa que ésta tiene muchas deficiencias, lo que tiene un impacto negativo en el rendimiento escolar de los y las estudiantes, situación que sería agravada

por la confrontación existente entre el Gobierno y el Magisterio, la cual aún estaría lejos de solucionarse, dada la ausencia de estrategias encaminadas a lograr un acuerdo entre las partes involucradas.

Comunicación enviada

68. El 21 de enero de 2008, el Relator Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas mando una comunicación en relación con las nuevas condiciones para la organización, ejecución y evaluación del proceso de admisión para las carreras docentes, que afectarían a la continuidad de las actividades de educación intercultural bilingüe llevadas a cabo en el marco del Programa de Formación de Maestros Bilingües de la Amazonía Peruana (FORMABIAP) en el Departamento de Loreto.

69. El programa FORMABIAP, que dio inicio a sus actividades en 1988, se ejecuta conjuntamente por la Asociación Interétnica de Desarrollo de la Selva Peruana (AIDSESP) y el Ministerio de Educación a través del Instituto Superior Pedagógico Público Loreto (ISPPL), en el marco de las resoluciones ministeriales N.º 364-88-ED y N.º 389-2000-ED. El programa tiene como objetivo la promoción de la educación intercultural bilingüe en el Departamento de Amazonas, donde habría conseguido la formación y titulación de más de 800 profesores pertenecientes a 15 pueblos indígenas, con especialización en educación intercultural bilingüe, así como en la recuperación y el fortalecimiento de lenguas indígenas en vías de extinción. El FORMABIAP fue citado en el último informe del Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas como una buena práctica de aplicación del enfoque de derechos humanos en el desarrollo de los pueblos indígenas, basado en principios de cogestión y empoderamiento (A/HRC/6/15, párr. 41).

70. Según las informaciones recibidas, de acuerdo con el Decreto Supremo N° 023-2001-ED “Reglamento General de los Institutos Superiores Pedagógicos y Escuelas Superiores de Formación Docente Públicos y Privados”, serían los Institutos Superiores los que estarían a cargo de las pruebas de admisión a la carrera docente. Ello habría permitido que los institutos superiores participantes en el programa FORMABIAP pudieran seleccionar a sus propios profesores con especialización en educación intercultural bilingüe.

71. El Programa FORMABIAP habría planificado el proceso de admisión 2007 y programado 40 vacantes para jóvenes postulantes pertenecientes al pueblo Achuar del río Corrientes y al pueblo Kichwa de los ríos Napo y Tigre, zonas en las que no se estaría desarrollando programas de educación intercultural bilingüe. 65 jóvenes indígenas habrían postulado para esas vacantes.

72. El 24 de enero de 2007, por Resolución Ministerial N° 0017-2007-ED, el Ministerio de Educación aprobó las nuevas normas “para la organización, ejecución y evaluación del proceso de admisión en los Institutos Superiores Pedagógicos Públicos y Privados, las Escuelas Superiores de Formación Artística y los Institutos Superiores que forman en carreras docentes”, contenidas en el Reglamento de Organización y Funciones del Ministerio de Educación, aprobado por el Decreto Supremo N° 006-2006-ED. El artículo 39(h) de dicha resolución concentra en la Dirección de Educación Superior Pedagógica, dependiente de la Dirección Nacional de Educación Superior y Técnico-Profesional, la elaboración de normas académicas y

administrativas referidas al ingreso y titulación y traslado de las instituciones de formación docente. La Resolución Ministerial privaría por tanto al FORMABIAP de la capacidad de seleccionar los profesores para carreras docentes en educación intercultural bilingüe.

73. Según los informes recibidos, las modalidades de admisión establecidas en la nueva normativa establecerían obstáculos de hecho a los postulantes indígenas para acceder a la formación docente. En primer lugar, las convocatorias a los exámenes de admisión se habrían hecho en las ciudades de Iquitos, San Lorenzo, Contamana y Requena, con lo que habría sido muy difícil para los postulantes indígenas presentarse a éstas debido a los problemas derivados de la distancia, la movilidad y la falta de recursos económicos suficientes para cubrir los gastos de inscripción.

74. En segundo lugar, las notas mínimas fijadas para el examen de admisión dificultarían de hecho el ingreso de aspirantes indígenas. Se alega que, en la Fase I, se habría fijado una nota mínima de 14 para pasar a la Fase II. Asimismo, los postulantes debían tener como mínimo una nota de 14 como promedio de las pruebas de la Fase II. Se alega que la calidad de la educación oficial en las zonas indígenas hace que sea altamente improbable que los postulantes indígenas pudieran lograr dicha puntuación. Se alega asimismo que el proceso de evaluación sería único para indígenas y no indígenas, sin considerar las circunstancias culturales, lingüísticas y educativas de los postulantes.

75. Según las informaciones recibidas, los responsables del FORMABIAP habrían hecho llegar formalmente al Ministerio de Educación su disconformidad con los nuevos requisitos establecidos en la nueva normativa. Se informa que el día 22 de febrero de 2007 habría tenido lugar una reunión en Loreto entre los responsables del FORMABIAP y los funcionarios de la Dirección Nacional de Educación Superior. En dicha reunión, se habría llegado a un acuerdo para ampliar el número de sedes del examen de admisión en zonas cercanas a las comunidades Kichwa y Achuar de origen de los 65 estudiantes inscritos. Asimismo, se habría llegado al acuerdo de que la nota de ingreso de 14 sería ponderativa en relación con dichos estudiantes, pero no determinante. El 16 de marzo, sin embargo, los responsables de FORMABIAP habrían sido informados por funcionarios de la DINESUTP de que el Ministerio de Educación no habría aceptado ninguno de los compromisos inicialmente asumidos en la reunión del 22 de febrero.

76. El 25 de marzo de 2007 se habría llevado a cabo el examen oficial de ingreso a la carrera docente. Según las alegaciones, de los 65 postulantes procedentes de las comunidades Kichwa y Achuar de los ríos Napo, Tigre y Corrientes, sólo uno habría podido desplazarse para realizar el examen, no habiendo aprobado el examen de ingreso. Se alega asimismo que, de los más de los 14.000 postulantes para el ingreso en la carrera docente en todo el país, solo habrían ingresado 525, entre los cuales no se encontraría ningún postulante indígena.

77. Se expreso también la preocupación de que los nuevos requisitos establecidos para la admisión en la carrera docente reviertan los esfuerzos llevados a cabo por el FORMABIAP y otras iniciativas similares en relación con la promoción de la educación intercultural bilingüe en el país.

Observaciones

78. El Relator Especial lamenta no haber recibido respuestas a ninguna de las dos comunicaciones enviadas al Gobierno.

Poland

Communication sent

79. On 21 June 2007, the Special Rapporteur sent a communication concerning information received that in March 2007, the deputy Minister of education, Mr. Mirosław Orzechowski, allegedly stated in different occasions that Government was developing legislation to ban “promotion of homosexuality” in schools and all education facilities. According to this legislation, teachers, students and principals who violate its provisions could face dismissal, fines or prison terms. Moreover, health educators advocating safer sex practices for homosexuals would be banned from schools, as well as lesbian, gay and transgender (LGBT) organizations.

80. In addition, it was alleged that in a radio interview Mr. Orzechowski, stated that “homosexuals should not hold positions such as those of a teacher”. The next day he insisted that he was misquoted and said that “only those who propagate homosexuality would face consequences”. Previously, at a summit of European Union education Ministers in March 2007, Deputy Prime Minister and Minister of Education, Mr. Roman Giertych, allegedly affirmed that children are receiving “propaganda about homosexuality”, adding that this “must be limited so children will have the correct view of the family”.

81. According to the information received the legislative proposal was under “popular consultation”, which is a step of the legislative process. However, it has not been made public. It would have the support of the Prime Minister Mr. Jarosław Kaczyński and the President Mr. Lech Kaczyński.

82. The Special Rapporteur reiterated his concern already expressed in a communication sent on 27 June 2006, as well as in his report A/HRC/4/29/Add.1 presented to the Human Rights Council during its 4th session, regarding the dismissal of the Director of the National In-Service Training Centre, due to his involvement in the publication and dissemination of a Council of Europe’s human rights handbook for young people. The Special Rapporteur was concerned that the legislation referred to above might be also an attempt to prevent the dissemination in Poland of educative information that promotes universal human rights, tolerance and respect for diversity. He was also preoccupied that it would prevent students of having access to sexual health information and that it would jeopardize Polish educators’ rights.

Communication received

83. By letter dated 26 November 2007, the Government replied to the communication sent by the Special Rapporteur on 21 June 2007 concerning the preparation by the Polish Ministry of National Education of a draft Act aiming at the prevention to promote homosexuality in schools and on the ban of propagating the homosexuality as an ideology in Polish educational system.

The Government informed that on 6 September 2007, the Managing Board of the Ministry of National Education decided on the discontinuation of further legislative process on the mentioned draft.

Observations

84. The Special Rapporteur thanks the Government for its reply and is pleased to note that the draft legislation has been discontinued.

Russian Federation

Communication received

85. By letter dated 20 February 2007, the Government replied to the communication sent on 25 October 2006 by the Special Rapporteur together with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Independent Expert on minority issues.²

86. The Government informed that the Ministry of Internal Affairs of the Russian Federation and the Federal Migration Service exercise, within their established fields of competence, the authority to prevent and put a stop to administrative offences, enforce public order and monitor compliance by foreigners and stateless persons with the rules governing residence and temporary sojourn in the Russian Federation. These activities are carried out concerning all foreigners, irrespective of their citizenship. Consequently, there is no emphasis placed on detecting violations of federal law by Georgian citizens in particular. Inclusive, Georgians are nowhere near the majority of the illegal migrants deported from Russia. The Government further explained that deportations in the Russian Federation are subject to the relevant court order; therefore, there are no grounds to assert that Georgians are being subjected to mass deportation on account of their ethnic background.

87. All Georgian citizens detained for breaches of the rules governing sojourn in the Russian Federation are held until immediately before their deportation from Russia in internal-affairs authority holding centers, where they are provided with beds, toiletries, food, medical attention and other services.

88. Concerning the case of Mr. Togonidze, who was awaiting deportation together with other Georgians, the Government informed that despite all the efforts to save him, he passed away. In accordance with the findings of the Forensic Bureau at the City of Moscow Health Department, Mr. Togonidze's death was caused by a narcotic poisoning.

89. According to the Government, all the criminal proceedings that were brought against Georgians were legal and for good reason. The preventive measures were applied with due regard for the current legislation. The Moscow City Procurator's office has received no complaints from Georgian citizens to the effect that their rights and liberties have been violated or that they have been subjected to discrimination on the grounds of their nationality.

² See A/HRC/4/29/Add.1, paras. 57-70.

90. The Government also stated that the Ministry of Education and Science, the Federal Education Agency and the Federal Education and Science Inspectorate reported to have no information about discrimination against students of Georgian nationality or the establishment of lists of such students and their families with a view to their later prosecution and deportation from Russia.

91. On checking, the Moscow City Education Department uncovered instances in which internal-affairs employees, on the pretext of verifying compliance with the law on migration, had made unwarranted demands on schools and other institutions to furnish the personal details of ethnic Georgian pupils and their parents. The Moscow City Internal Affairs Authority conducted official investigations into these cases and the culprits were punished. Finally, it was said that the Russian Ministry of Education and Science is taking steps to prevent displays of xenophobia in educational institutions.

Observations

92. The Special Rapporteur would like to thank the Government for its informative reply.

Slovenia

Communication received

93. By letter dated 26 June 2006, the Government replied to the communication sent on 20 April 2006 by the Special Rapporteur, together with the Special Rapporteur on the right of everyone to the enjoyment of the highest available standard of physical and mental health, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Independent Expert on minority issues.³ The Government explained that the figure of 6,000 stateless people living in Slovenia is incorrect - rather, since Slovenia gained independence 4,205 people remain undocumented or stateless. Further, following a ruling of the Constitutional Court of the Republic of Slovenia, it was again possible for affected persons to apply for permanent residence permits. However, by spring 2006, only 124 persons had regulated their status. A draft Constitutional Act would also set the conditions for acquiring permanent residence permits with retroactive effect for citizens of other successor states to the former Socialist Federal Republic of Yugoslavia, who had permanent residence in Slovenia on 23 December 1990. The Government did not explain the position of the children of "erased" persons born after this date. While not disputing that affected individuals had significantly limited or no access to a wide range of health services, the Government suggested that this was because these people had no health insurance. The Government emphasised that they had access to emergency health services, paid for by the Ministry of Health. In this respect, 31 claims for damages have been filed by affected persons. The Government explained that a Constitutional Act was being adopted to regulate the payment of compensation.

³ See A/HRC/4/29/Add.1, paras. 71-90.

Observations

94. The Special Rapporteur would like to thank the Government for its extensive and informative reply and regrets not having reflected it in his previous Report on summary of communications.

Sri Lanka

Communication sent

95. On 24 April 2007, the Special Rapporteur sent a communication regarding several students of the University of Jaffna, who had been the target of abductions, illegal detentions and killings.

96. According to information received, on 3 January 2007, Mr. Arunakirinathan Niruparajh student of the Faculty of Sciences was abducted by Army Officers. It is reported that at the time Mr. Niruparajh's family was shifting its residence to a house nearby its previous residence. At about 11 a.m., Army officers carried out a cordon and search operation at the family's new residence. Mr. Niruparajh went to the former residence, at around 2:30 p.m., but he did not return home. Subsequently, University students organized a non-violent protest claiming the release of Mr. Arunakirinathan Niruparajh. He was subsequently released, reportedly with signs of torture. It is reported that the family has lodged a complaint before the Human Rights Commission.

97. On 19 August 2006, Mr. Sivarajah Paheerathan, President of the Student Union of the University of Jaffna and student of the Faculty of Arts, was reportedly arrested by the Army. He was at the University students' common room when the Army came to conduct a search operation, and arrested him without any legal basis.

98. On 18 November 2006, Mr. Markandu Sasikumar student of the Faculty of Arts, was also abducted. Mr. Sasikumar had gone to Pungudutheivu Navy camp in order to obtain military clearance to go out of Jaffna. He had left the camp and was waiting for a bus nearby when unidentified men in a pick up truck abducted him. The whereabouts of Mr. Sasikumar remains unknown. It is reported that his family has lodged a complaint before the Human Rights Commission.

99. On 18 February 2007, Mr. Krishnan Kamalathas tutor and student of the Faculty of Arts was killed. Mr. Kamalathas was on his way to give a private class at Varany, when he was reportedly stopped by Army officers near the Varany Army camp. The officers asked him to return home and he did so. While he was returning home, unknown men dressed in t-shirts and trousers opened fire at him.

100. On 15 August 2006, Mr. Sinnaiyah Sivashankar, a student at the Faculty of Sciences was murdered. He left the University hostel with a friend at around 12:20 p.m. to buy a soft drink in a shop nearby when unidentified men opened fire at them. Mr. Sivashankar family has reportedly lodged a complaint before the Human Rights Commission on 10 October 2006. To date, none had been arrested in connection with his killing.

101. According to the information received, since August 2006 attacks against students from the Jaffna University belonging to the Tamil community have increased. They have had a negative impact on students' curricula which failed to start on two occasions, (i.e. on 19 January and on 18 February 2007) as authorized by the University Council. In particular, it is feared that the abduction of Arunakirinathan Niruparajh and the killing of Krishnan Kamalathas have prevented the continuation of normal academic activities. Students also fear to be the target of another attack in the current pervasive climate of impunity.

102. The Special Rapporteur regrets not having received a reply from the Government regarding the above-mentioned communication.

Venezuela (Bolivarian Republic of)

Comunicación enviada

103. El 1 de marzo de 2007, el Relator Especial junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y la Representante Especial del Secretario-General para los defensores de los derechos humanos mando una comunicación en relación con el Sr. José Luís Urbano, presidente de Pro-Defensa del Derecho a la Educación, una organización no-gubernamental que se dedica a la promoción del derecho a la educación en Venezuela. De acuerdo con la información recibida:

104. El 10 de febrero de 2007, cuando el Sr. Urbano y su esposa se dirigían en coche a su casa en Barcelona, en el estado septentrional de Anzoátegui, un coche Mitsubishi negro con dos hombres se paró junto a ellos; Bajando del vehículo, uno de los individuos gritó "métele, es el tipo de Pro-defensa" y el otro introdujo el arma por la ventana y disparó al Sr. Urbano, quien resultó herido en el abdomen.

105. Según los informes, los atacantes siguieron al Sr. Urbano y su esposa cuando se dirigían al hospital. Gracias al Defensor del Pueblo, el Sr. Urbano habría gozado de protección policial durante su estancia en el hospital. Sin embargo, dicha protección parece haber cesado el 20 de febrero de 2007, a pesar de que la esposa del Sr. Urbano habría denunciado oficialmente el ataque ante la policía y ante la Defensoría del Pueblo el día anterior.

106. El 9 de febrero de 2007, Pro-Defensa del Derecho a la Educación habría ofrecido una rueda de prensa durante la cual habría denunciado la deficiente calidad de la educación proporcionada a los menores del estado de Anzoátegui y el cobro sumas de dinero por la educación, que es gratuita. Ese mismo día, se alega que el Sr. Urbano recibió una llamada telefónica amenazándole con que algo le sucedería si no dejaba su actividad.

107. Se teme que estos eventos puedan estar relacionados con la actividad en defensa de los derechos humanos de la Organización Pro-Defensa de el Derecho a la Educación presidida por el Sr. Urbano y se expresa profunda preocupación por su seguridad e integridad física así como la del resto de miembros de dicha organización.

Comunicación recibida

108. Mediante carta datada del 28 de Junio de 2007, el Gobierno contestó a la comunicación enviada por el Relator Especial conjuntamente con el Relator Especial sobre la Promoción del Derecho a la Libertad de Opinión y de Expresión y con la Representante Especial del Secretario General para los Defensores de Derechos Humanos relativa a supuestas amenazas de muerte y un supuesto intento de homicidio en contra del señor José Luís Urbano, presidente de la Organización No-Gubernamental “Pro-Defensa del Derecho a la Educación”, hecho ocurridos en Febrero de 2007 en el Estado Anzoátegui.

109. De acuerdo con las informaciones proporcionadas por la Fiscalía General de la República Bolivariana de Venezuela, una investigación de los hechos llevada a cabo por la Fiscalía Segunda del Ministerio Público de la Circunscripción ya estaba en curso. En cuanto a las diligencias efectuadas, ya se había entrevistado a la víctima y ya se le había sometido a un examen médico legal. En relación con las medidas de protección a la víctima, la Fiscalía a cargo de las investigaciones ya había solicitado la tutela correspondiente ante el Juzgado Quinto de Primera Instancia en Funciones de Control del Circuito Judicial Penal del referido Estado, acordándose la medida de vigilancia policial en la zona donde reside la víctima.

110. El Gobierno se puso a disposición de la Oficina de la Alta Comisionada a los fines de dar ulteriores informaciones acerca del caso.

Observaciones

111. El Relator Especial quisiera agradecer al Gobierno por su respuesta detallada en relación a la comunicación enviada.

Zimbabwe

Communication sent

112. On 19 February 2007, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders sent a communication concerning Mr. Promise Mkwanzani, President of the Zimbabwe National Students Union (ZINASU), Ms. Maureen Kademaunga, Secretary-General of the University of Zimbabwe, and Mr. Lawrence Mashungu, President of the Zimbabwe Christian Students Movement (ZSCM), who engaged in a peaceful demonstration in Harare on 13 February 2007.

113. According to the information received, on 13 February 2007 officers from the Police Internal Security and Intelligence of the Harare Central Police Station arrested Mr. Mkwanzani, Ms. Kademaunga, and Mr. Mashungu together with eight other students activists, including Abisha Dube, Chanda Chinale, Lovemore Chinoputsa, Kudzai Mupazviriwo, Gladys Mukubvu, Kudakwashe Mapundu, and Blessing Vava, President of the Bulawayo Polytechnic College, who have since been released after paying admission of guilt fines amounting to Z\$ 250 each. Mr. Mkwanzani, Ms. Kademaunga, and Mr. Mashungu remain in detention at Harare Central Police station under the authority of the Law and Order Section despite the expiry of the prescribed 48 hours period of detention.

114. The arrests took place following a meeting at Harare Polytechnic College and a subsequent peaceful demonstration in the streets of Harare. The students' demonstration was aimed at addressing the current economic situation in Zimbabwe and the effect it has on the income of students, lecturers, doctors, nurses, teachers, workers, and civil servants. The demonstrators also expressed their concern with the state of higher education in the country and demanded the abolition of the recently introduced new tuition fees structure.

115. Mr. Mkwanzani, Ms. Kademaunga, and Mr. Mashungu are charged pursuant to section 37, para. 1 (b) of the Criminal Law (Codification and Reform) Act, which provides that "Any person who- acting together with one or more other persons present with him or her in any place or at any meeting performs any action, utters any words or distributes or displays any writing, sign or other visible representation that is obscene, threatening, abusive or insulting, intending thereby to provoke a breach of the peace or realising that there is a risk or possibility that a breach of the peace may be provoked shall be guilty of participating in a gathering with intent to promote public violence, a breach of the peace or bigotry, as the case may be, and be liable to a fine not exceeding level ten or imprisonment for a period not exceeding five years or both."

116. Concern was expressed that the arrest and detention of the aforementioned persons may be connected to their peaceful and legitimate activities in defence of human rights.

Communication sent

117. On 25 February 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders sent a communication regarding a group of teachers and members of the Progressive Teachers' Union (PTUZ), including Messrs Takavafira Zhou (president), Raymond Majongwe (secretary general), Harrison Mudzuri, Landistoun Zunde, Oswald Mudziva, Bernard Shoko, Charles Mubwandarika, and Ms Linda Simande, currently involved in a campaign entitled "Save our Education" which highlights shortcomings in the education system in Zimbabwe.

118. According to information received, on 19 February 2008, the aforementioned members of the Progressive Teachers' Union (PTUZ) were reportedly engaged in peaceful protest, distributing leaflets in Harare as part of the "Save our Education" campaign. While on Fourth St, the protesters were accosted by a number of unidentified youths, who reportedly brought them to a building used by the ruling political party, the Zimbabwe African National Union - Patriotic Front (ZANU-PF), where they assaulted them.

119. The assailants reportedly hit and kicked the protesters with clenched feet, open palms, booted feet and iron rods. One female teacher was reportedly stripped naked in front of her male colleagues and assailants, and had her genital area repeatedly stepped upon. During the assaults, the victims were accused of being activists from the opposition party Movement for Democratic Change.

120. Reports indicated that police officers arrived and took the teachers to Harare central police station where it is believed they may also have been subjected to ill-treatment. Lawyers were reportedly initially denied access to the teachers by one Detective Chief Inspector Manjengwa;

with one lawyer being forcibly escorted from the police station. Offers to transfer the teachers to hospital were rejected by police despite their need of medical attention. They were eventually transferred to Harare Central Hospital in a pick-up truck, from where, after several hours delay awaiting medical attention, they were transferred to the Avenues Clinic, where they were admitted for treatment.

121. Concern was expressed that the assault and ill-treatment of the aforementioned persons may be directly related to their activities in defense of human rights, particularly their exercising of the right to freedom of expression and assembly. In view of reports of their ill-treatment, further concern is expressed for their physical and psychological integrity.

Communication received

122. By letter dated 2 April 2008, the Government replied to the communication sent on 25 February 2008 by the Special Rapporteur, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences and Special Representative of the Secretary-General on the situation of human rights defenders. In order to explain the facts and circumstances that led to the arrest of members of the Progressive Teachers Union of Zimbabwe (PTUZ), the Government sent along its reply a copy of a response from the Zimbabwe Republic Police. According to this document, Raymond Majongwe, Janat Hillary, Takavarika Zhou, Benard Zhou, Levicinos Ziunde, Harrison Mudzuri, Oswald Madziva and Linda Fumaphanda are members of the PTUZ and are all facing Police investigations. It was reported that on 19 February 2008, members of PTUZ went to ZANU PF Harare Provincial Headquarters to distribute flyers within the party premises.

123. The supporters of ZANU PF who were at the party headquarters did not react well to the MDC political messages contained in the flyers and a skirmish started between the ZANU PF supporters and the members of the teachers' association. It was confirmed that some of the members of the Progressive Teachers' Association were injured. The Police arrived at the party headquarters and arrested nine members of the teachers' association and two ZANU PF youths. At no time were the suspects subjected to any form of ill-treatment by the Police. It was denied that the mentioned members of PTUZ were assaulted by unidentified youths. Two ZANU PF youths, Trymore Chikupula and Cleopas Gutsa, are also being charged for the assault and no ill-treatment was inflicted upon them. It was refused that the injured were denied access to medical attention. They were brought to the hospital by the Police and the delay to receive medical attention can only be attributed to the hospital. Finally, it was denied that the accused were released without any charge. They all went to Court and were released upon a bail payment.

Observations

124. The Special Rapporteur thanks the Government for its reply, but nevertheless expresses concern that the arrest and detention as well as the assault and ill-treatment of the persons mentioned in the two communications sent to Zimbabwe may be linked to their peaceful and legitimate activities in defence of human rights.
