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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 promotion and protection of
the right to freedom of opinion and expression, Frank La Rue**

Addendum

Summary of cases transmitted to Governments and replies received*

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

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Introduction

1. At its seventh session, the Human Rights Council, in its resolution 7/36, tasked the Special Rapporteur (a) to gather all relevant information, wherever it may occur, relating to violations of the right to freedom of opinion and expression, discrimination against, threats or use of violence, harassment, persecution or intimidation directed at persons seeking to exercise or to promote the exercise of the right to freedom of opinion and expression, including, as a matter of high priority, against journalists or other professionals in the field of information; (b) to seek, receive and respond to credible and reliable information from Governments, non-governmental organizations and any other parties who have knowledge of these cases; and (c) to make recommendations and provide suggestions on ways and means to better promote and protect the right to freedom of opinion and expression in all its manifestations.

2. In accordance with the above-mentioned provisions, the present report contains, on a country-by-country basis, summaries of general and individual allegations, as well as urgent appeals transmitted to Governments between 1 January 2009 and 19 March 2010, as well as replies received from Governments between 16 May 2009 and 14 May 2010. Although received before 14 May 2010, some replies are not included in the present report because translation is awaited. Most of the responses by States refer to cases raised by the Special Rapporteur during the period between January 2009 and March 2010; however, some of the responses are to cases addressed by him in earlier reporting periods, mainly due to delays in translation. 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 Rapporteur's reports from preceding years (see A/HRC/11/4/Add.1, A/HRC/7/14/Add.1, and A/HRC/4/27/Add.1, covering three previous years). Replies to communications received after 15 May 2010 will be included in the next communications report of the Special Rapporteur, as well as replies not yet translated by that date.

3. During the period under review, the Special Rapporteur transmitted 304 communications to the Governments of 84 States: Afghanistan, Algeria, Angola, Argentina, Azerbaijan, Bahrain, Belarus, Bolivia, Brazil, Bulgaria, Burundi, Cambodia, Cameroon, Chad, Chile, China, Colombia, Congo (Republic of the), Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Guatemala, Guinea, Guinea-Bissau, Honduras, India, Iran (Islamic Republic of), Iraq, Israel, Italy, Kazakhstan, Kenya, Kyrgyz Republic, Libyan Arab Jamahiriya, Lithuania, Madagascar, Malawi, Malaysia, Mauritania, Mexico, Morocco, Myanmar, Namibia, Nepal, Nicaragua, Niger, Oman, Pakistan, Peru, Philippines, Republic of Korea, Republic of Moldova, Russian Federation, Saudi Arabia, Serbia, Sierra Leone, Somalia, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Republic of Tanzania, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, and Zimbabwe.

4. 284 out of 304 communications were signed jointly with other Special Procedures mandate-holders. The geographical division of the communications was as follows: 32 per cent in Asia and the Pacific; 22 per cent in Latin America and the Caribbean; 19 per cent in Africa; 14 per cent in Europe, North America and Central Asia; and 12 per cent in the Middle East and North Africa.

5. Owing to restrictions on the length of documents, the Special Rapporteur has reduced details of communications sent and received. The full text of all communications is available within the files of the Office of the United Nations High Commissioner for Human Rights.
6. In reporting on the communications, the Special Rapporteur has used initials for those victims who, in the Special Rapporteur's opinion, could be in a potentially sensitive situation, in order to respect their privacy and to prevent the possibility of further victimization. With a view to preserve the presumption of innocence, the Special Rapporteur omitted to include the names of alleged perpetrators, and of other individuals involved in the cases included in this report. Conversely, Governments' communications may contain names of persons and/or disclose specific situations linked to the violation.
7. The Special Rapporteur wishes to reiterate that violations and concerns regarding the right to freedom of opinion and expression are, to different extents, a common phenomenon in the whole world. Consequently, the exclusion or the inclusion of a particular country or territory should not be interpreted as the indication of any specific choice done by the Special Rapporteur regarding the analysis of trends and patterns of the implementation of the right to freedom of opinion and expression.

Afghanistan

Urgent appeal

8. The Special Rapporteur sent an urgent appeal to the Government concerning **proposed restrictions on media coverage during the Presidential elections** on 21 August 2009.
9. According to information received, on 17 August 2009, the offices of the Foreign Ministry and the Interior Ministry issued separate statements in relation to media coverage during the presidential elections. In a copy of its statement issued in English, the Foreign Ministry noted that "all domestic and international media agencies are requested to refrain from broadcasting any incidence of violence during the election process from 6:00 a.m. to 8:00 p.m. on 20 August 2009". The statements were made "in view of the need to ensure the wide participation of the Afghan people... and prevent any election-related terrorist violence." Reports claimed that a version of the same statement issued in the Dari-language warned the media that reporting on violence during the elections was "strongly prohibited". A spokesman for President Hamid Karzai reportedly noted that the decision to impose media restrictions on the media during the elections was taken to protect the national interest of Afghanistan in order to encourage people and raise their morale to come out and vote.
10. Concern was expressed that the decision by the Government to restrict media coverage during the Presidential elections may prevent independent reporting in the country. Further concern was expressed that such restrictions may deprive voters of their right to seek and receive information about the election process and the threats that they may face on polling day.

Response from the Government

11. In a letter dated 8 September 2009, the Government replied to the communication above. In its response, the Government stated that the main aim of ban on reporting during the Election

Day was to provide necessary psychological conditions to ensure participation of the people in elections. It further stated that there was sufficient evidence that the Al-Qaeda tried to carry out attacks by taking advantage of the presence of hundreds of international media personnel. From its perspective, the ban on reporting, which started at 06:00 a.m. in the morning and lasted until 17:00 p.m., proved effective in protecting the lives of the civilian population.

12. The Government also stated that the National Security Council of Afghanistan deemed the ban necessary to ensure the safety of citizens and to protect the national interest of the country. The ban was aimed at preventing reporting on terrorist activities and displaying victims' dead bodies.

13. In order to ensure people's access to information about the election process and security threats, as well as to local and international media, the Government stipulated that it held six press conferences on the day of the elections through spokespersons of the Ministry of Foreign Affairs, Ministry of National Defense, Ministry of Interior and Directorate of National Security, as well as Ministers of Interior and National Defense and Head of Directorate of National Security of the Islamic Republic of Afghanistan.

Observations

14. The Special Rapporteur thanks the Government for its reply.

Algeria

Lettre d'allégations

15. Le 8 janvier 2009, le Rapporteur spécial, conjointement avec le Président du Groupe de travail sur les Disparitions Forcées ou Involontaires et la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, a envoyé une lettre d'allégations sur la situation de M. **Moussa Bourefis**, étudiant en médecine et interne stagiaire au service de gynécologie obstétrique du Centre Hospitalier Universitaire (CHU) de Constantine. Selon les informations reçues :

16. M. Moussa Bourefis aurait fait récemment l'objet d'actes d'intimidation suite à sa rencontre avec le Groupe de travail sur les Disparitions Forcées ou Involontaires en novembre 2008 à Genève. M. Moussa Bourefis risquerait d'être recalé de son stage au CHU de Constantine. Selon des informations obtenues, les pressions exercées sur les administrations de la Faculté et du CHU de Constantine le viseraient directement et auraient pour objectif de lui faire cesser ses activités militantes et associatives en faveur des familles de disparus.

Lettre d'allégations

17. Le 31 juillet 2009, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, a envoyé une lettre d'allégations sur la situation de M. **Hamrani M'Hamed**, citoyen libyen, et M. **Zerrari Khalid**, citoyen marocain, tous deux membres du Congrès Mondial Amazigh (CMA), une organisation non-gouvernementale qui œuvre à la défense et la promotion des droits civils, politiques, économiques, sociaux et culturels du peuple amazigh. MM. Hamrani M'Hamed et Zerrari Khalid se sont rendus en Algérie pour

assister à la réunion du Conseil fédéral (c.à.d. le Conseil d'administration) du CMA qui doit se tenir le 1er août. Selon les informations reçues :

18. Le 29 juillet 2009, M. Hamrani M'Hamed aurait été arrêté par la police de Tizi-Ouzu et interrogé pendant six heures sur les raisons de sa présence en Algérie et ses activités en Libye. Il aurait été relâché en début de soirée.

19. Le 30 juillet en début de matinée, M. Hamrani M'Hamed aurait à nouveau été arrêté par la police, ainsi que M. Zerrari Khalid. Ils auraient été libérés après six heures d'interrogatoire qui portait notamment sur le lieu où se tiendra la réunion du Conseil fédéral du CMA. Les policiers auraient fortement conseillé à MM. Hamrani M'Hamed et Zerrari Khalid de quitter le territoire algérien, sur lequel ils sont entrés légalement.

20. Des craintes sont exprimées quant au fait que les arrestations de MM. Hamrani M'Hamed et Zerrari Khalid soient liées à leurs activités de défense des droits de l'homme du peuple amazigh.

Réponse du Gouvernement

21. Le 8 septembre 2009, le Gouvernement algérien a répondu à la lettre d'allégations du 31 juillet 2009. Le Gouvernement informe que les personnes mentionnées n'ont pas informé qu'elles étaient invitées par une organisation non gouvernementale. Cette dernière, étant une organisation de droit français, ne dispose d'aucun statut légal en Algérie. Par conséquent et selon la législation algérienne, elle ne pouvait pas mener des activités sur le territoire compte tenu du fait qu'elle ne disposait pas d'une accréditation auprès des autorités compétentes.

22. Les personnes objet de la communication ont donc fait l'objet d'un examen de situation conforme à la législation en vigueur dans la mesure où elles avaient contrevenu à la législation sur le séjour des étrangers et qu'elles sont associées à une activité non autorisée par les autorités compétentes.

Appel urgent

23. Le 4 août 2009, le Rapporteur spécial, conjointement avec le Groupe de Travail sur la détention arbitraire et la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, a envoyé un appel urgent sur la situation de Mme **Zoubida Fdail**, MM. **Lounes Belkacem**, **Hocine Azelf**, **Rabah Issadi**, **Mohamed Meziani**, **Youcef Lekadir**, **M'Hamed Hamrani**, **Mustapha El-Ouaaliti** et **Khalid Zerrari**, tous membres du Congrès Mondial Amazigh (CMA), une organisation non-gouvernementale qui œuvre à la défense et la promotion des droits civils, politiques, économiques, sociaux et culturels du peuple amazigh. Ils se sont rendus en Algérie pour assister à la réunion du Conseil fédéral (c.à.d. le Conseil d'administration) du CMA qui doit s'est tenue le 1er août. La situation de MM. Khalid Zerrari et M'Hamed Hamrani a fait l'objet d'une lettre d'allégations le 31 juillet 2009 par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et de la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme. Le Gouvernement algérien a envoyé une réponse en date du 8 septembre 2009. Selon les informations reçues :

24. Le 3 août 2009 en fin de matinée, Mme Zoubida Fdail, MM. Lounes Belkacem, Hocine Azelf, Rabah Issadi, Mohamed Meziani, Youcef Lekadir, M'Hamed Hamrani, M. Mustapha El-Ouaaliti et Khalid Zerrari auraient été arrêtés par la police de Tizi-Ouzu suite à la tenue d'une conférence de presse et interrogés pendant plusieurs heures. MM Lounes Belkacem, Hocine Azelf, Rabah Issadi, Mohamed Meziani et Youcef Lekadir auraient été libérés dans la soirée. Mme Zoubida Fdail, MM Khalid Zerrari, Mustapha E-Ouaaliti et Hamrani M'Hamed seraient toujours maintenus en détention.

25. Des craintes sont exprimées quant au fait que les arrestations de MM Lounes Belkacem, Hocine Azelf, Rabah Issadi, Mohamed Meziani, Youcef Lekadir, Khalid Zerrari, M'Hamed Hamrani, Mustapha El-Ouaaliti et Mme Zoubida Fdail soient liées à leurs activités de défense des droits de l'homme du peuple amazigh.

Réponse du Gouvernement

26. Le 8 septembre 2009, le Gouvernement algérien a répondu à l'appel urgent du 4 août 2009. Le Gouvernement informe que les personnes mentionnées ont organisé une manifestation sans autorisation préalable en violation de la législation algérienne. Le Congrès Mondial Amazigh, organisation non gouvernementale de droit français pour le compte de laquelle ces personnes agissaient, ne dispose d'aucun statut légal en Algérie. Par conséquent et selon la législation algérienne, elle ne pouvait pas mener des activités sur le territoire compte tenu du fait qu'elle ne disposait pas d'une accréditation auprès des autorités compétentes.

27. Les personnes mentionnées ont fait l'objet d'un examen de situation conforme à la législation en vigueur dans la mesure où elles ont contrevenu à la législation sur les réunions publiques et qu'elles se sont associées à des étrangers pour mener une activité non autorisée par les autorités compétentes.

Observations

28. Le Rapporteur spécial remercie le Gouvernement de ses réponses mais regrette, au moment de la finalisation du présent rapport, l'absence de réponse aux communications en date du 8 janvier 2009, 7 novembre 2008, et 6 mars 2007. Il considère les réponses à ses communications comme partie intégrante de la coopération des gouvernements avec son mandat. Il exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celles-ci, notamment en fournissant des informations précises sur les enquêtes menées afin de traduire en justice les auteurs des faits et les mesures de protection prises.

29. Par ailleurs, concernant la communication en date du 8 janvier 2009, le Rapporteur spécial rappelle que la Résolution 12/2 du Conseil des droits de l'homme a « demand[é] instamment aux gouvernements d'empêcher et de s'abstenir de commettre tout acte d'intimidation ou de représailles contre ceux qui: a) Cherchent à coopérer ou ont coopéré avec l'Organisation des Nations Unies, ses représentants et ses mécanismes dans le domaine des droits de l'homme, ou leur ont apporté des témoignages ou des renseignements; b) Recourent ou ont recouru aux procédures mises en place sous les auspices de l'Organisation des Nations Unies pour assurer la protection des droits de l'homme et des libertés fondamentales, et tous ceux qui leur ont fourni une assistance juridique ou autre à cette fin; c) Soumettent ou ont soumis des communications en vertu de procédures établies conformément à des instruments relatifs aux droits de l'homme, et

tous ceux qui leur ont fourni une assistance juridique ou autre à cette fin; d) Sont des proches de victimes de violations des droits de l'homme ou de ceux qui ont fourni une assistance juridique ou autre aux victimes ».

Angola

Urgent appeal

30. On 27 January 2010, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government concerning **Mr. Belchior Lanso Tati, Mr. Francisco Luemba, Mr. Raul Tati, Mr. Pedro Fuca**, Chevron employee, and **Mr. Zefarino Pauti**, a former police officer. Mr. Lanso Tati is an economist and university professor. Mr. Luemba is a lawyer and writer. He has defended several persons accused of crimes against the security of the state and has published a book in 2008 on the recent history of the Cabinda Province, which was critical of the government. Mr. Raul Tati is a catholic priest and the former Chair of the Catholic Church's Justice and Peace Commission in the Cabinda Province, which documented and denounced alleged human rights abuses by the military in the interior of the Cabinda Province. The three men were also members of the "Civic Association of Cabinda", "Mpalabanda". This organization was working on the human rights situation in the Cabinda Province until its judicial ban in 2006 following allegations that it was carrying out political activities and inciting violence. A joint urgent appeal was sent on 16 August 2006 regarding the ban of "Mpalabanda" by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders. At the time of submitting the communication, no reply had been received from the Government to the communication.

31. According to the information received, Mr. Lanso Tati, Mr. Raul Tati, and Mr. Luemba were reportedly arrested by agents of the criminal investigation police on 13 or 14, 16 and 17 January 2010 respectively. They have not been formally charged, but it is reported that they are accused of crimes against the security of the state. They were initially detained in Cadeia civil prison, and have been transferred to Yabi prison, where they have access to legal counsel.

32. Further details about the exact dates and circumstances of the arrest and the places of detention of Mr. Pedro Fuca and Mr. Zefarino Pauti are not known. It is alleged that further individuals, among them Mr. Raul Danda, MEP for UNITA, Mr. Marcos Mavungo, human rights activist, Mr. Jorge Casimiro Congo, priest, Mr. Martinho Nombo, lawyer, and Mr. Agostinho Chicaia, engineer, also appear on arrest lists of Angolan authorities.

33. Mr. José Manuel Gimbi, correspondent of Voice of America in Cabinda, has allegedly been warned by a senior police official that his life was at risk. He was told that the authorities considered him to be a "dangerous person who has damaged Angola's image". It is alleged that this threat follows Mr. Gimbi's recent reports on arbitrary arrests of human rights defenders in Cabinda.

34. The attack of 8 January 2010, by separatist rebels against the Togolese national football team in the framework of the 2010 Africa Cup of Nations is reportedly used to justify these arrests and the crackdown on government critics and human rights defenders working on the situation in Cabinda. Human rights defenders have also denounced that they are being subjected to travel restrictions and having their passports confiscated.

35. Mr. Chicaia was the subject of an allegation letter sent by the then Special Representative of the Secretary General on the situation of human rights defenders on 29 September 2006. The mandate-holders acknowledged receipt of the reply received from the Government on 10 October 2006.

36. Concern was expressed that the arrests that are reported to have been carried out already or are reportedly imminent, and the detention of the abovementioned persons and the threats against Mr. Gimbi might be directly related to their work in defense of human rights and in particular the non-violent exercise of their right to freedom of opinion and expression.

Observations

37. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a response to his communications of 27 January 2010, and to an earlier communications sent on 9 September 2008, 30 November 2006, 16 August 2006 and 5 April 2004. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

Argentina

Llamamiento urgente

38. El 2 de abril de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con las amenazas y serio hostigamiento de la Sra. **María Soledad Laruffa**, militante de la filial Merlo de la Liga Argentina por los Derechos del Hombre (LADH).

39. La LADH es una institución, creada en 1937, dedicada a la defensa, la promoción y la educación para los derechos humanos.

40. Según la información recibida, el 26 de marzo de 2009, la Sra. Laruffa habría sido interceptada por dos desconocidos a bordo de una moto, con los rostros ocultos por los cascos, que habría vuelto a amenazarla ahora de manera personal con el mensaje “que la corte con eso de los derechos humanos”, y evidenciando además la existencia de un “grupo en condiciones de actuar secuencialmente”.

41. Anteriormente, el 23 de marzo de 2009, la Sra. Laruffa habría recibido una llamada telefónica amenazante en su celular de parte de desconocidos, los cuales habrían proferido insultos y reclamos.

42. Estos actos de hostigamiento habrían coincidido con los preparativos del histórico juicio por el asesinato en 1976, de Floreal Avellaneda, militante de 15 años de edad de la Federación Juvenil Comunista.

43. Este juicio, cuyo inicio está previsto para el 27 de abril de 2009 y durante el cual juzgará el Gral. Santiago Omar Riveros y sus cómplices, será el primero en examinar el accionar del terrorismo de Estado en el ámbito de Institutos Militares, entre los cuales estaba el de Campo de Mayo.

44. El 24 de marzo de 2009, se habría realizado un acto de reclamo de justicia para Floreal Avellaneda durante una jornada de conmemoración en el predio de Quinta Seré, organizada por la dirección de derechos humanos de la Municipalidad de Morón, durante la cual la Sra. Laruffa habría obsequiado a la Sra. Iris Avellaneda, la madre de Floreal Avellaneda, una remera estampada con su rostro en nombre de los jóvenes de la LADH.

45. Se expresó temor que la amenaza en contra de la Sra. María Soledad Laruffa podría estar relacionada con su trabajo de investigación de los crimines del pasado y, más en general, en cuestiones de justicia y derecho a la verdad. Asimismo, se expresó preocupación por su integridad física y psicológica.

Respuesta del Gobierno

46. Mediante cuatro cartas fechadas el 9 de abril de 2009, el 16 abril de 2009, el 8 de junio de 2009, el 13 de agosto de 2009 y el 6 de enero de 2010, el Gobierno respondió al llamamiento urgente.

47. En la carta con fecha el 9 de marzo de 2009, se informó que el llamamiento urgente fue puesto en conocimiento del Chancillería quien informó que estaba llevando a cabo consultas urgentes con las autoridades pertinentes de la Provincia de Buenos Aires.

48. En la carta fechada el 16 de abril de 2009, el Gobierno proporcionó información, brindada por la Secretaría de Derechos Humanos del Gobierno de la Provincia de Buenos Aires. Según la carta, la Secretaría de Derechos Humanos tomó contacto con el Juzgado Federal en lo Criminal y Correccional No 3 de Morón a cargo del Juez Subrogante Dr. Juan Pablo Sala, quien informó que estaba tramitando la denuncia bajo la causa No 1.760.

49. Se informó que, en razón de la gravedad de los hechos, la Secretaría de Derechos Humanos recomendó al magistrado que arbitre los medios conducentes a fin de requerir la incorporación de la denunciante al Programa Nacional de Protección de Testigos del Ministerio de Justicia, Seguridad y Derechos Humanos de la Nación.

50. Asimismo, la Secretaría de Derechos Humanos solicitó por escrito al Sr. Juez Salas que informe las medidas adoptadas tendientes a determinar a los responsables de los hechos denunciados.

51. Según la carta fechada el 8 de junio de 2009, la Secretaría de Derechos Humanos solicitó informes a diversos organismos gubernamentales tendientes a la obtención y recopilación de información relativa a las gestiones realizadas sobre el caso.

52. Entre otros, se puso en contacto con la dirección de Derechos Humanos del Municipio de Morón quien informó que después de que ocurrieron los hechos, se puso en contacto con el abogado de la Sra. Laruffa para ponerse a su disposición.

53. La mencionada Secretaría informó que no tenía conocimiento de que la autoridad judicial hubiera efectuado el pedido de protección al Ministerio de Justicia, Seguridad y Derechos Humanos.

54. En la carta con fecha el 6 de enero de 2010, se informó en nombre del Sr. Juez Salas que el día 30 de julio de 2009, se resolvió archivar la causa de la Sra. Laruffa, debido a la situación planteado y el resultado de las diligencias instructoras recopiladas en la causa. Asimismo, el testimonio de la Sra. Laruffa no resulta suficiente porque no logró aportar datos relevantes que resultaran de interés para el desarrollo de una pesquisa o siquiera identificar de forma alguna a quienes la habrían intentado coaccionar. No fue vislumbrada que la producción de otras medidas probatorias permitan variar tal cuadro de situación.

55. Así también, las últimas situaciones que denunciara la Sra. Laruffa no encuadran en figura penal alguna y no existiría acción típica punible que pueda aplicarse a tales hechos. No pueda vincular dicha situación con los hechos materia de investigación en la presente pesquisa. La ausencia de otras evidencias directas o indirectas impidió de momento el avance de la presente investigación.

Llamamiento urgente

56. El 31 de julio de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con el secuestro del Sr. **Emanuel San Martín**, un educador del Hogar Juan XXIII, y la intimidación de otros educadores del Hogar Juan XXIII y miembros de la organización Pelota de Trapo.

57. Pelota de Trapo es una fundación que se dedica a la defensa de los derechos de niños y jóvenes. En 1987, Pelota de Trapo fundó el Movimiento Nacional Chicos del Pueblo, una red de más de 300 organizaciones. El Hogar Juan XXIII forma parte de dicha red. Durante 2008, el Movimiento Nacional Chicos del Pueblo lanzó una campaña denominada “El Hambre es un Crimen - Ni un Pibe Menos”.

58. El 5 de agosto de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos envió un llamamiento urgente al gobierno argentino en relación con el allanamiento de la Escuela Gráfica Manchita de Pelota de Trapo, perpetrado por ocho hombres armados, y el secuestro de un joven del Hogar Juan XXIII. El 8 de octubre de 2008, dos titulares de mandatos enviaron un llamamiento urgente en relación con el secuestro del Sr. Emanuel San Martín. El 4 de diciembre, dos titulares de mandatos enviaron un llamamiento urgente al Gobierno en relación con los supuestos secuestros de la Sra. María Isabel Almeida y el Sr. Emanuel San Martín, educadores del Hogar Juan XXIII; el Sr. Reymundo Sacca, un voluntario del mismo hogar; la Sra. Viviana Dadario, una educadora de la Red El Encuentro en José C. Paz; y la supuesta intimidación de otros educadores del Hogar Juan XXIII y miembros de la organización Pelota del Trapo. El 14 de julio de 2009, la Relatora Especial sobre la situación de los defensores de los derechos humanos envió otro llamamiento urgente en relación con el

secuestro de la Sra. Verónica Vaquel, una educadora de la organización Pelota de Trapo, y la intimidación de otros educadores del Hogar Juan XXIII y miembros de la organización Pelota de Trapo. Se agradecieron las respuestas de su Gobierno a las otras comunicaciones, recibidas el 28 de octubre de 2008, el 16 de enero de 2009, el 5 de febrero de 2009 y el 9 de marzo de 2009.

59. Según las informaciones recibidas, el 24 de julio de 2009, aproximadamente a las 12 horas del mediodía, el Sr. San Martín habría sido secuestrado por cuatro personas no identificadas cuando salió del Hogar Juan XXIII para realizar unas compras.

60. Habría estado regresando de la farmacia, cerca del Hogar Juan XXII, cuando una camioneta tipo Kangoo obscura se habría acercado y las cuatro personas a bordo del vehículo le habrían apuntado con una escopeta. Asimismo, lo habrían llevado a un galpón y lo habrían golpeado.

61. A las 12:46 horas de la tarde habría llegado un mensaje de texto al celular de uno de los dirigentes de la fundación que decía “Tenemos uno de ustedes al que mas queríamos bingo... Ema es un pibe menos”.

62. Casi al mismo tiempo otro miembro de la fundación habría recibido un mensaje similar que decía: “Tenemos lo que más buscamos, tenemos a Ema su pibe, respeten...”. También llegó otro mensaje a las 14:15 horas que decía “Ojo con lo que dicen la vida de uno de sus pibes está en peligro y con sentencia de muerte”. Poco después, habría llegado otro mensaje advirtiendo a los miembros del Hogar Juan XXIII falsamente que el Sr. San Martín había muerto.

63. Sin embargo, aproximadamente a las 18:30 horas, el educador habría sido puesto en libertad en la Capital Federal cerca del Zoológico de Palermo. A pesar de la intervención del Ministerio de Justicia y Seguridad de la Nación, mientras el Sr. San Martín estaba secuestrado no habrían logrado identificar ni detener a los agresores.

64. Tras el inicio de la campaña “El Hambre es un Crimen - Ni un Pibe Menos” miembros de la fundación Pelota de Trapo y el Hogar Juan XXIII habrían sido objeto de una campaña de amenazas e intimidaciones, siendo varios de ellos incluso secuestrados. El Sr. San Martín habría sido víctima de secuestros en dos ocasiones durante dicha campaña en 2008. Recientemente, los miembros de Pelota de Trapo habrían pedido protección policial, pero esta les habría sido negada. Después de este nuevo atentado habrían designado custodia en el Hogar Juan XXIII, pero los integrantes de Pelota de Trapo siguen sin protección.

65. Se expresó temor que el secuestro del Sr. San Martín y las amenazas y los actos de intimidación contra los miembros de Pelota de Trapo y el Hogar Juan XXIII podrían estar relacionados con las actividades legítimas de estas organizaciones en defensa de los derechos humanos de niños y jóvenes bonaerenses.

Respuesta del Gobierno

66. En cartas fechadas el 10 y 26 de agosto de 2009, el 5 de octubre de 2009 y el 1 de diciembre de 2009, el Gobierno respondió al llamamiento urgente.

67. Según la primera carta, se estaba realizando consultas urgentes a nivel de las autoridades nacionales y provinciales.

68. En la carta fechada el 26 de agosto de 2009, el Gobierno proporcionó información elaborada por el Subsecretario de la Procuración General de la Suprema Corte de Justicia de la Provincia de Buenos Aires y confirmó los datos presentados en las comunicaciones relacionadas a los casos de la Sra. Vaquel y el Sr. San Martín.

69. Asimismo, se informó que estaban tramitando la causa I.P.P. No. 12.147 por Privación Ilegal de la Libertad, en la cual resultó víctima el Sr. San Martín. También las causas 6749, 11306, 14853, 18471 y 18584 en las cuales resultan víctimas miembros del Movimiento nacional Los Chicos del Pueblo fue tramitado.

70. El informe proporcionó información sobre el caso del Sr. Emmanuel San Martín. En el informe, confirmaron los hechos presentados en la comunicación relativa al Sr. San Martín.

71. Se informó que tanto personal policial de la provincia de Buenos Aires como así también de Policía Federal Argentina a través de su Delegación Avellanda, se dedica a la custodia dinámica de los distintos domicilios donde tiene asiento la organización como así también de sus integrantes.

72. En la respuesta del Gobierno fechada el 5 de octubre, se proporcionó más información relativa al caso así como las respuestas a las preguntas hechas en el llamamiento urgente elaboradas por la Secretaría de Derechos Humanos de la Provincia de Buenos Aires. Según la información recibida, el 24 de julio de 2009, el sacerdote Luis Alberto Espósito formuló denuncia penal por los hechos que resultara víctima el educador Sr. San Martín dando origen a la Investigación Penal Preparatoria No. 12.147.

73. Se informó que estas actuaciones se encontraban en plena etapa de investigación, tramitando diligencias de instrucción a fin de dar con los autores de los hechos denunciados.

74. Se subrayó que la investigación se encontraba en pleno trámite en la fecha que se recibió la carta pero que los autores de los hechos no habrían sido identificados.

75. Asimismo, se informó que recibieron declaraciones testimoniales e hicieron una reconstrucción de los hechos denunciados con la presencia personal de la Fiscalía Interviniente y de los peritos de fotografía y video de Fiscalía de Cámaras Departamental, como así también del padre Luis Espósito, Director del Hogar Juan XXIII. El funcionario judicial manifestó que en reiteradas oportunidades el personal de Fiscalía realizó inspección del lugar y recibió declaraciones testimoniales. También se informó que se encontraban realizando análisis de telefonía tanto de base como móvil para esclarecer los hechos.

76. La Secretaría habría expresado al Subsecretario de Derechos Humanos la aspiración de que instructores especializados pertenecientes al Procuración General de la Provincia de Buenos Aires colaboren en este proceso investigativo, con el fin de lograr un rápido esclarecimiento de los hechos denunciados.

77. En relación con las medidas de protección adoptadas, informaron que el encargado de la pesquisa habría informado que dispuso las consignas fijas de personal policial pertenecientes a la División de Custodia del Policía de la Provincia de Buenos Aires a efectos de custodias la

Fundación Pelota de Trapo como así también el Hogar Juan XXIII, para preservar a los jóvenes integrantes de las mismas.

78. Se informó que, con fecha 18 de diciembre de 2008, se convocó a la Policía Federal Argentina a través de su Delegación en la Ciudad de Avellaneda para la realización de tareas investigativas y custodias fijas y dinámicas para brindar seguridad a las víctimas.

79. En la carta fechada el 1 de diciembre de 2009 se informó que habían continuado las investigaciones descritos en las cartas previas. Por ejemplo, habían tomado declaraciones testimoniales y realizado la reconstrucción del evento descrito supra, encontrándose asimismo presente el padre Luis Espósito, Director del Hogar Juan XXIII. También el suscripto se había hecho presente en reiteradas oportunidades junto a personal de la Fiscalía en el Hogar Juan XXIII, donde realizó una inspección del lugar y recibió declaraciones testimoniales.

80. En relación con las medidas adoptadas para garantizar la seguridad de Emanuel San Martín y los demás miembros del Hogar Juan XXIII, le informó que se habían dispuesto consignas fijas de personal policial perteneciente a la División de Custodia de la policía de la Provincia de Buenos Aires a los efectos que custodien la fundación Pelota de Trapo y el Hogar Juan XXIII, a los efectos de preservar a los jóvenes integrantes de las mismas.

81. Posteriormente y más puntualmente desde el día 18 de diciembre de 2008, se había convocado a la Policía Federal Argentina a fin que realice tareas investigativas y se haga cargo de las custodias fijas para darles seguridad. La División de Custodia de la policía de la Provincia de Buenos Aires y la Delegación Avellaeda de Policía Federal Argentina se habían continuado garantizar la seguridad.

82. Se informó que se estaban continuando realizar análisis de telefonía tanto de base como móvil a fin de poder esclarecer los injustos en examen, contando con la colaboración de personal de la Procuración de la Provincia de Buenos Aires.

Observaciones

83. El Relator Especial agradece la información proporcionada por el Gobierno de Argentina en relación con las dos comunicaciones enviadas.

Azerbaijan

Urgent appeal

84. On 15 July 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government concerning youth activists Mr. **Adnan Hajizade** and Mr. **Emin “Milli” Abdullayev**. Mr. Adnan Hajizade is a prominent video-blogger and coordinator of the OL Youth Organization. Mr. Emin “Milli” Abdullayev is the co-founder and coordinator of the Alumni Network (AN) Youth Organization and head of ANTV Online. Mr. Abdullayev has previously also worked with the OSCE Office in Baku, the Council of Europe and the Friedrich Ebert Stiftung.

85. According to information received, on 8 July 2009, Mr. Hajizade and Mr. Abdullayev were assaulted while having dinner at a Lebanese Restaurant in the centre of Baku, by two men in civilian clothing. The two individuals, who had been identified as Mr. Babek Huseynov and Mr. Vusal Mammadov, addressed them in an aggressive manner and attacked them physically. Following the incident, Mr. Hajizade and Mr. Abdullayev went to the Sabail police station to file a complaint, and to report the injuries they had sustained. They were interrogated for several hours by the police and subsequently arrested. They were transferred to the Khatai detention centre at police station No 37. Mr. Hajizade and Mr. Abdullayev were allowed to see their lawyers only in the afternoon of 9 July 2009, and were examined by a doctor afterwards. According to information available, both sustained minor injuries. The assailants were not arrested.

86. On 10 July 2009, Mr. Hajizade and Mr. Abdullayev were again interrogated at the Sabail police station for several hours. Later that day, a preliminary hearing was held in their case at the Sabail District Court. Mr. Hajizade and Mr. Abdullayev were charged with hooliganism under article 221 of the Criminal Code of Azerbaijan, and were remanded to two months pre-trial detention pending further investigation of the case. The hearing in their case was held in closed session.

87. Concern was expressed that the arrest, detention, and subsequent remand in detention of Mr. Hajizade and Mr. Abdullayev may be related to their activities in the defense of human rights, especially to their activism in youth organizations. Further concern was expressed that the assailants of Mr. Hajizade and Mr. Abdullayev were not arrested, and were present at their hearing only as witnesses.

Urgent appeal

88. On 4 August 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, sent an urgent appeal concerning Mr. **Novruzali Mammadov**, Head of the Talysh Cultural Centre and Talysh language expert. Mr. Mammadov was the subject of an earlier communication, sent to your Excellency's Government on 26 August 2008. A response to that communication had been received on 13 March 2009.

89. According to new information received, in June 2009, Mr. Novruzali Mammadov was diagnosed with several serious medical conditions by a doctor in Prison Colony No. 15, including cataract, prostate cancer and thyroid problems. On 28 July 2009, Mr. Mammadov was transferred from Prison Colony to the central hospital for the penitentiary system, which is run by the Ministry of Justice.

90. Mr. Mammadov is allegedly not receiving adequate medical care in the hospital, where his health has further deteriorated. Reports claim that he has been denied pain relief by the hospital staff and has received no treatment for his conditions yet.

91. Concern was expressed that the health of Mr. Novruzali Mammadov may further deteriorate if he does not receive adequate medical care and urgent attention.

Response from the Government

92. At the time this report was finalized, the reply of the Government of 9 October 2009 to the communication sent on 4 August 2009 had not been translated.

Letter of allegations

93. On 18 September 2009, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent a letter of allegations to the Government regarding the death of Mr. **Novruzali Mammadov**. Mr. Mammadov was the Head of the Talysh Cultural Centre, editor of now-defunct Talysh minority language newspaper, Talyshi Sado (Voice of the Talysh) and a Talysh language expert.

94. Mr. Mammadov was the subject of an earlier communication sent to the Government on 26 August 2008. A response to the first communication had been received on 13 March 2009. A second communication was sent on 4 August 2009.

95. According to the information received, on 17 August 2009, Mr. Mammadov died in detention at the hospital of the Ministry of Justice's Penitentiary Service in Baku where he had been transferred on 27 July 2009. Mr. Mammadov's serious health condition reportedly required urgent surgery. However, prison authorities allegedly failed to provide him with adequate medical treatment, as reported by his family who was allowed to visit him on 30 July. Moreover, in the days prior to his death, and despite his alleged aggravated condition and pain, Mr. Mammadov was placed in a common ward, lacking sanitary facilities and bed clothing.

96. Grave concern was expressed that the lack of sufficient medical care and deplorable conditions of detention may have aggravated Mr. Mammadov's health condition leading to his death.

Observations

97. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a response to his communications of 15 July 2009 and 18 September 2009. At the same time, the Special Rapporteur wishes to thank the Government for the response provided to communications sent on 4 August 2009 and on 26 August 2008. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

Bahrain

Urgent appeal

98. On 19 February 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding the charges against, and the travel ban imposed on Mr. **Abdulhadi Alkhwaja**. Mr. Abdulhadi Alkhwaja is the former President of the Bahrain Centre for Human Rights (BCHR) and

currently protection coordinator at the non-governmental organization Front Line with responsibility for the Middle East and North Africa with the exception of Bahrain. Mr. Alkhawaja was the subject of 2 urgent appeals sent on 2 February 2007 and on 14 December 2005. The Government responded to both communications. According to the information received:

99. On 7 January 2009, Mr. Abdulhadi Alkhawaja delivered a speech during Ashora, an annual gathering commemorating the martyrdom of Imam Hussain, the third historic Imam of Shia. Mr. Alkhawaja had been invited due to his experience as a human rights defender in Bahrain. In his intervention Mr. Abdulhadi Alkhawaja referred to the human rights situation in Bahrain, and denounced instances of corruption and discrimination. He also called for resistance to human rights violations by peaceful means and civil disobedience.

100. On 21 January, the office of the Attorney General ordered prosecution against Mr. Alkhawaja under articles 29(2), 160, 165, and 168(1) of the Penal Code. He was charged with 'propaganda to overthrow or change the political system by force', 'publicly instigating hatred and disrespect against the ruling regime', and 'willfully broadcasting false and malicious news, statements or rumors and spreading provocative propaganda related to the internal affairs of the country that could disturb public security and cause damage to the public interest'. These charges carry the maximum sentence of up to ten years imprisonment.

101. The first hearing in his case was held by the High Criminal Court on 8 February 2009, and subsequently adjourned to 11 March 2009. In the morning of 9 February 2009, Mr. Alkhawaja was prevented from leaving to go to Iraq, where he was scheduled to travel as the Middle East coordinator of Front Line. He was told by passport control officers that there is an official order from the General Prosecution Office to prevent him from leaving the country.

102. Concern was expressed that the charges against Mr. Abdulhadi Alkhawaja may be related to his legitimate activities defending human rights, particularly his defense of freedom of expression in Bahrain.

Response from the Government

103. In a letter dated 1 April 2010, the Government replied to the communication sent on 19 February 2009, concerning **Mr. Abdulhadi Alkhawaja**. In its response, the Government informed that the information and allegations sent by the Special Rapporteurs are inaccurate, and stated that it "take[s] issue in particular with the reference to Mr. Al-khawaja's "legitimate activities defending human rights, particularly his defence of freedom of expression in Bahrain". The Government further provided the following information:

104. "In the view of my Government, Mr. Al-Khawaja cannot in any way be characterized as a legitimate human rights defender. He has, in my Government's view, no genuine interest in human rights but is, in reality, engaged in a clearly political campaign to overthrow Bahrain's legitimate constitutional government. In his capacity, he has been intimately involved in inciting violence to achieve this end, including participation in demonstrations that have seen violence against police personnel. He has quite rightly been marginalized by political and human rights organizations in Bahrain, and consequently seeks to enhance his own credibility by falsely associating himself with human rights principles and with international human rights groups. My

Government strongly urges you to treat any information or allegations from Mr. Al-Khawaja or his supporters with extreme caution as to both its sources and content.

105. The facts of the events in question are as follows. On 6 January 2009, Abdul Hadi Al-Khawaja delivered a speech on the occasion of Ashura, a religiously charged and emotive occasion for the Shia community. In his speech, Mr. Al-Khawaja used deliberately inflammatory language to call for the overthrow of the legitimate government of Bahrain, and attempted to draw parallels with the historical events of Ashura. Moreover, he sought to use the occasion to give religious or sectarian legitimacy to the potentially violent overthrow of the government.

106. Further, and in deliberately incendiary language, Mr. Al-Khawaja made a number of untrue and inflammatory allegations against the government and against members of the ruling family. His only purpose and intent in making such allegations was to incite hatred, and he would have been fully aware that his words were likely to (and indeed were intended to) stir his supporters into violence.

107. Moreover, while Mr. Al-Khawaja evidently attempted to choose his words carefully (doubtless for international consumption), to give the impression that he was advocating “peaceful resistance”, it is abundantly clear from the timing, tone and content of his remarks that his intention was to defame the government and individuals within it, and to incite and promote violence against the government, its employees and property. Indeed, he explicitly called for the overthrow of Bahrain’s legitimate constitutional government by extra-constitutional means.

108. Further, Mr. Al-Khawaja made a clear implicit link between the battle of Karbala, the backdrop of Ashura, and the necessity of a “battle” to overthrow what he characterized as an “oppressive regime”, seeking to draw parallels between the Umayyad regime and the government of Bahrain. He also clearly called for extra-constitutional action in order to overthrow the legitimate constitutional government of Bahrain. Given Mr. Al-Khawaja’s previous involvement in violent attacks on police, and his record of inciting violence, there can be little doubt as to what was intended by his remarks.

109. For these reasons, Mr. Al-Khawaja was interviewed by the Public Prosecutor on suspicion of a number of offences, including inciting the overthrow of the government, inciting hatred, defaming senior officials, and insulting the King and government institutions.

110. Subsequently, he appeared in court on 11 March 2009, facing charges of attempting to forcibly change the government, publicly inciting hatred and contempt of the government, and deliberately spreading false and malicious information. His counsel requested an adjournment of the case so that he could submit a challenge to the constitutionality of the charges. The court accepted this request and the case was adjourned. I would also point out that the hearing was attended by representatives of both local and international human rights organizations.

111. Finally, I want to underline, once again, that the arrest, investigation, charging and trial of Mr. Al-Khawaja are in no way relevant to the protection of the right to freedom of opinion and expression, nor the activities of genuine human rights defenders. My Government remains committed to the promotion and protection of human rights, and to safeguarding and facilitating the activities of those who genuinely seek to advance this noble cause.”

Letter of allegations

112. On 5 March 2010, the Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations on concerning Mr. **Nabeel Rajab**, president of the Bahrain Center for Human Rights (BCHR), Mr. **Mohamed Al-Maskati**, president of the Bahrain Youth Society for Human Rights (BYSHR), and Mr. **Abdul Ghani Al-Khanjar**, spokesperson for the National Committee for Martyrs and Victims of Torture (NCMVT). BCHR is a broad-based human rights organization which has continued to operate despite being ordered to close by the authorities in November 2004. BYSHR is a youth-led human rights organization, founded in 2005 but denied registration by the authorities. NCMVT has been involved in organizing protests and public events to commemorate victims of conflict and uprisings in Bahrain. Mr. Nabeel Rajab was the subject of communications sent by the then Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 25 July 2005 and 6 October 2004.

113. In recent months, Mr. Rajab, Mr. Al-Maskati and Mr. Al-Khanjar have worked with the international organization Human Rights Watch in the preparation of a report on the increasing use of torture by the Bahraini authorities. Entitled "Torture Redux", the report contains testimonies of victims of torture and ill-treatment, including those of human rights defenders and political activists. Published on 8 February 2010, the report acknowledges human rights activists who assisted in its preparation, and identifies Mr. Rajab, Mr. Al-Maskati and Mr. Al-Khanjar by name.

114. According to the information received, in recent weeks, a media smear campaign has been carried out against Mr. Rajab, Mr. Al-Maskati and Mr. Al-Khanjar. Beginning on 9 February 2010, unsubstantiated statements have been published regarding the activities of the three human rights defenders in various national newspapers, including The Gulf News, Al Watan News and Bahrain Voice. Several such articles have been published to date and the campaign appears to be ongoing. The statements include unsubstantiated allegations that Mr. Rajab, Mr. Al-Maskati and Mr. Al-Khanjar have betrayed their country, have committed acts of violence and have used Molotov cocktails.

115. In addition, on 16 February 2010 a radio program was broadcast on Bahrain Radio Station in which Mr. Faisal Fulath, a member of the Shura Council, Mr. Adel Al Mghwdah, a member of Parliament, and Mr. Mohammed Al-Shooruqi, a broadcaster, publicly condemned Mr. Rajab, Mr. Al-Maskati and Mr. Al-Khanjar. The previously published allegations against the three human rights defenders were repeated, in addition to accusations that they had links to foreign Governments, that they incited Bahraini youth to committing acts of violence, and that they had defamed the State before international organisations.

116. It is believed that the media campaign against Mr. Rajab, Mr. Al-Maskati and Mr. Al-Khanjar may be related to their work in the preparation of the report "Torture Redux", which was published the day before the first articles against them appeared in the press. It is believed that the media campaign may directly encourage public discontent with human rights defenders and their activities, in addition to discrediting Mr. Rajab, Mr. Al-Maskati and Mr. Al-Khanjar and the organisations they represent.

117. Concern was expressed that the media smear campaign against Mr. Rajab, Mr. Al-Maskati and Mr. Al-Khanjar might be related to their work in the defence of human rights, in particular their work against torture and against violations of human rights by the authorities, and their cooperation with international organizations, in particular Human Rights Watch, in the publicizing of such abuses.

Observations

118. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communications of 5 March 2010, 28 July 2008, 18 January 2008, 25 October 2007, and 7 March 2007. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

Belarus

Letter of allegations

119. On 14 May 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations to the Government concerning the judgment of the Supreme Court to maintain a previous decision by the Ministry of Justice not to register the human rights organization **Nasha Viasna (Our Spring)**. Viasna has been working on various human rights issues since 1999, advocating human rights issues through the media, organizing education programs and monitoring elections. In January 2009, Viasna launched a campaign for the abolition of the death penalty in Belarus.

120. According to the information received, Viasna had been registered with the Ministry of Justice since 1999, and was forced to close down in October 2003, as a result of a decision by the Supreme Court, following the demand of the Ministry of Justice. In April 2004, after having exhausted all domestic remedies to challenge the decision of the Supreme Court, the President of Viasna and the Vice-President of FIDH lodged a complaint with the UN Human Rights Committee. In its communication of 24 July 2007 (no. 1296/2004), the Committee concluded that Article 22 (1) of the International Covenant on Civil and Political Rights had been violated, and considered that the co-authors of the complaint were “entitled to an appropriate remedy, including the re-registration of Viasna”, and that “Belarus was under an obligation to take steps to prevent similar violations occurring in the future”.

121. On 15 April 2008, the Parliamentary Assembly of the Council of Europe reiterated the position of the UN Human Rights Committee regarding the closure of Viasna and urged the Belarusian authorities to “repeal Article 193-1 of the Criminal Code, criminalising activities of non-registered organizations” (resolution 1606 of 15 April 2008).

122. Despite the opinion of the UN Human Rights Committee, all subsequent attempts by Viasna to register have failed. In January 2009, 67 members of Viasna submitted an application to the Ministry of Justice to register the NGO under the name “Nasha Viasna”, since Belarusian legislation prevents the use of the name of an organization that had been liquidated. On 26

February 2009, the organization was denied registration by the Ministry of Justice due to the violations concerning the holding its constituent congress. An appeal was lodged against this decision, but on 22 April 2009 the court refused to consider it due to defect of form. On 24 April 2009, the Supreme Court also rejected the complaint by the founders of Nasha Viasna against the decision of the Ministry of Justice. The Supreme Court found that the decision by the Ministry of Justice was legal due to certain procedural violations by Nasha Viasna, including inaccuracies in the founders' list and the organization's Charter. All other arguments by the Ministry of Justice had been found invalid. The Supreme Court also rejected the argument of the Ministry of Justice which claimed that Nasha Viasna's constituent congress was not in full conformity with the relevant legislation.

123. On 25 April 2009, Nasha Viasna applied for registration for the third time.

124. Concern was expressed that the refusal to register Nasha Viasna may be connected to its work in the defence of human rights, in particular its campaign for the abolition of the death penalty in Belarus. Further concern was expressed that the repeated refusal to register the organization contravenes Article 22 of the International Covenant on Civil and Political Rights, to which Belarus is a party, and runs counter to the decision by the UN Human Rights Committee, and the resolution of the Parliamentary Assembly of the Council of Europe.

Response from the Government

125. In a letter dated 31 August 2009, the Government responded to the communication sent on 15 July 2009. In its response, the Government transmitted information provided by the Office of the Procurator-General of the Republic of Belarus and the Supreme Court of the Republic of Belarus.

126. The criminal proceedings against Mr. L. Svetik were heard by the Vitebsk Provincial Court in connection with the charge that he had committed an offence under article 130, paragraph 1, of the Criminal Code (Incitement to racial, ethnic or religious enmity or discord).

127. In accordance with a decision by the deputy prosecutor of Vitebsk province of 11 May 2009, one of the charges against Mr. Svetik — committing an offence under article 367, paragraph 2, of the Criminal Code (Defamation of the President of the Republic of Belarus) — was dropped.

128. On 16 July 2009, the criminal division of the Vitebsk Provincial Court sentenced Mr. Svetik under article 130, paragraph 1, of the Criminal Code to pay a fine of 31,500,000 Belarusian roubles (approximately US\$ 11,130).

129. The court found Mr. Svetik guilty of engaging, from July 2006 to January 2008, in premeditated acts aimed at provoking ethnic enmity and discord among the Belarusian, Jewish and Russian ethnic groups, advocating the exclusivity and supremacy of the Russian ethnic group, and demeaning the national honour and dignity of the Belarusian and other ethnic groups. Coming to Vitebsk for this purpose, he posted pamphlets on behalf of an unregistered organization, Russian National Unity (Vitebsk branch), to the Vitebsk Provincial Executive Committee, newspapers, Belarusian theatres, and members of political parties and voluntary associations. The pamphlets contained pictures, statements and slogans aimed at provoking

ethnic and religious enmity and discord among the Belarusian, Jewish and Russian ethnic groups, advocating the exclusivity and supremacy of the Russian ethnic group and the Orthodox religion, and demeaning the national honour and dignity of the Belarusian, Jewish and other ethnic groups.

130. The guilt of the accused, Mr. Svetik, was established by the testimony of the injured parties, Mr. T. Gusachenko, Mr. V. Bazan, Mr. Y. Derzhavtsev and others, who stated that they had received and seen the pamphlets, the content of which demeaned the Belarusian, Jewish and other peoples.

131. In addition, the conclusions of expert handwriting analysis indicated that the addresses on the envelopes containing the pamphlets had been written by Mr. Svetik. Forensic analysis established that the pictures and printed text of the pamphlets were produced on a printer using the supplementary toner cartridge and paper that were seized from Mr. Svetik's place of residence. Authorship analysis indicated that the texts of the letters containing the pamphlets sent to the injured parties and witnesses had all been written by the same person.

132. According to the expert academic analysis conducted by the linguistic commission, the Russian National Unity pamphlets under investigation may contain explicit incitement to interethnic enmity and discord aimed at demeaning the national honour and dignity of the Belarusian, Jewish and other ethnic groups.

133. The Vitebsk Province Procurator's Office concurred with the court's judgement. However, the sentence has not been carried out, since Mr. Svetik and his defence counsel, Mr. P. Sapelko, have appealed by way of cassation to the criminal division of the Supreme Court of the Republic of Belarus. The case is scheduled to be heard by the court of cassation on 15 September 2009. Neither Mr. Svetik nor any other persons acting on his behalf have lodged a complaint with the Office of the Procurator-General of the Republic of Belarus. Further information relating to the trial and the reliability of the facts set out in the petition will be provided after the hearing of the case by the court of cassation.

Letter of allegations

134. On 14 August 2009, the Special Rapporteur sent a letter of allegations to the Government concerning Ms. **Natallya Radzina**, an editor of an opposition news website, Charter 97.

135. According to information received, on 15 July 2009, Ms. Natallya Radzina received an e-mail threatening violence of a sexual nature if she was not careful about what she chose to post on the Charter 97 website. The threat was reportedly prompted by an article posted on the website criticizing the authorities for failing to curb the neo-fascist Russian National Unity party's racist and xenophobic activities.

136. Moreover, on 8 June 2009, access to the Charter 97 website was reportedly blocked by a distributed denial of service attack (DDoS), in which a site is bombarded with a massive amount of connection requests that overload its server.

137. On 26 April 2009, police allegedly overran Charter 97 offices, preventing the editors from updating the website on a day that opposition demonstrations were taking place.

138. Concern was expressed that threats against Ms. Natallya Radzina and impediments to the operation of Charter 97 may represent a direct attempt to stifle the right to freedom of expression in Belarus.

Response from the Government

139. At the time this report was finalized, the reply of the Government of 2 July 2009 had not been translated.

Urgent appeal

140. On 24 August 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding the judgment of the Supreme Court to maintain a previous decision by the Ministry of Justice not to register the human rights organization '**Nasha Viasna**' (**Our Spring**). Nasha Viasna, previously known as Viasna, has been working on various human rights issues since 1999, advocating for human rights through the media, organizing education programs, preparing alternative human rights reports on Belarus and monitoring elections. In January 2009, it launched a campaign for the abolition of the death penalty in Belarus.

141. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders previously sent a joint communication on 14 May 2009, concerning the refusal to register Nasha Viasna.

142. According to the new information received, on 12 August 2009, the Supreme Court of the Republic of Belarus rejected an appeal of Nasha Viasna, confirming the decision by the Ministry of Justice of 25 May 2009, not to register the organization. During the trial before the Supreme Court, which commenced on 10 August 2009, the Ministry of Justice reportedly criticized minor details in Nasha Viasna's registration application and accused members of including distorted information in the application. In response to this, members of Nasha Viasna argued that what the Ministry referred to as distorted information concerning the identities of the founding members were clerical errors. Also, the legal validity of a letter of guarantee for the organization's future premises was reportedly called into question by the Ministry of Justice. Representatives for Nasha Viasna highlighted that the Ministry of Justice had not objected to the same letter in previous registration attempts. Despite the fact that the reasons given for non-registration of Nasha Viasna are not listed among those in Article 15 of the Law of the Republic of Belarus on Public Associations which stipulates the grounds on which registration of a public association can be denied, the Supreme Court Judge, Mr. Anatol Tserakh, subsequently agreed with the decision of the Ministry of Justice confirming the denial of registration for Nasha Viasna. The human rights organization was reportedly also denied the possibility of correcting its application so that it might comply with the requirements of the Ministry of Justice, in contradiction with Article 15 of the Law of the Republic of Belarus on Public Associations which allows for such corrections.

143. Considering that participating in the activities of an unregistered organization is a crime in Belarus under Article 193.1 of the criminal code, members of Nasha Viasna now risk being arrested if they continue their work in defense of human rights.

144. Nasha Viasna has previously tried to register on several occasions, both under its original name 'Viasna' and more recently under the new name 'Nasha Viasna'. On 15 June 1999, Viasna was originally registered by the Ministry of Justice. However, in 2003, following an inspection by the Ministry of Justice of the statutory activities of Viasna's branches, the Ministry of Justice filed for the dissolution of the organization with the Supreme Court of Belarus, based on Article 29 of the Law on Public Associations, and Article 57 paragraph 2 of the Civil Procedure Code. The Supreme Court subsequently ordered the dissolution of Viasna finding that Viasna did not comply with the established procedure of sending its observers to the meetings of the electoral commission and to the polling stations. The Court also found that the breach of the electoral laws was reason enough to warrant the dissolution of Viasna. An appeal by Viasna to the Chairperson of the Supreme Court was rejected on 24 December 2003.

145. In April 2004, the President of Viasna lodged a complaint with the UN Human Rights Committee seeking whether the dissolution of Viasna amounted to a violation of the author and his co-authors' right to freedom of association. The Committee observed that, in accordance with Article 22, paragraph 2 of the International Covenant on Civil and Political Rights, in order for the interference with the freedom of association to be justified, any restriction on its exercise must cumulatively meet the following conditions: (a) must be provided by law; (b) may only be imposed for one of the purposes set out in paragraph 2; and (c) must be "necessary in a democratic society" for achieving one of these purposes. The State party must further demonstrate that the prohibition of an association is necessary to avert a real and not only hypothetical danger to national security or democratic order, and that less intrusive measures would be insufficient to achieve the same purpose. In its communication of 24 July 2007 (no. 1296/2004), the Committee found that the court order which dissolved Viasna was based on perceived violations of the State party's electoral laws. The Human Rights Committee also concluded that the dissolution of the association was disproportionate and did not meet the requirements of Article 22, paragraph 2, thus the authors' rights under Article 22 (1) of the International Covenant on Civil and Political Rights had been violated. The Committee further considered that the author and co-authors of the complaint were "entitled to an appropriate remedy, including the re-registration of Viasna and compensation". It also found that "Belarus was under an obligation to take steps to prevent similar violations occurring in the future".

146. On 15 April 2008, the Parliamentary Assembly of the Council of Europe reiterated the position of the UN Human Rights Committee regarding the closure of Viasna and urged the Belarusian authorities to "repeal Article 193-1 of the Criminal Code, criminalizing activities of non-registered organizations" (resolution 1606 of 15 April 2008).

147. Despite the opinion of the UN Human Rights Committee, all subsequent attempts by Viasna to re-register under a new name have failed. In January 2009, 67 members of Viasna submitted an application to the Ministry of Justice to register the NGO under the new name 'Nasha Viasna', since Belarusian legislation prohibits the use of the name of an organization that had been liquidated. On 26 February 2009, the Ministry of Justice denied registration to the organization due to violations concerning the holding of its constituent congress. An appeal was lodged against this decision; on 22 April 2009 the court refused to consider it. On 24 April 2009, the Supreme Court also rejected the complaint by the founders of Nasha Viasna against the decision of the Ministry of Justice. The Supreme Court found that the decision of the Ministry of Justice was legal due to several procedural violations by Nasha Viasna, including irregularities

found in the founders' list and the organization's Charter. At the same time, the Supreme Court rejected all the other arguments of the Ministry of Justice, including the claim that the constituent congress of Nasha Viasna was not in full conformity with the relevant legislation.

148. On 25 April 2009, Nasha Viasna applied for registration for a third time. However, this application was also rejected on the grounds that some of the information given concerning certain founding members was "distorted", that some founding members had been the subject of administrative sentences, and that criminal charges had also been brought against some of them.

149. Concern was expressed that the continuous and sustained refusal to register the human rights organization Nasha Viasna might be related to its activities in the promotion and defense of human rights, in particular its campaign for the abolition of the death penalty in Belarus. Further concern was expressed that this verdict, and repeated refusal to register the organization, is in violation of international standards, in particular Article 22 of the International Covenant on Civil and Political Rights, to which Belarus is a party, and runs counter to the decision by the UN Human Rights Committee, and the resolution of the Parliamentary Assembly of the Council of Europe.

Response from the Government

150. In a letter dated 1 October 2009, the Government responded to the communication sent on 24 August 2009. In its response, the Government transmitted information submitted by the competent State authorities regarding the registration of the non-governmental human rights organization Nasha Viasna.

151. On 25 April 2009, the Ministry of Justice received documents applying for State registration of the non-governmental human rights organization Nasha Viasna.

152. On 25 May 2009, the Ministry of Justice took the decision to refuse Nasha Viasna State registration, on the grounds that the documents submitted did not meet legislative requirements.

153. The so-called "minor errors" (clerical errors) in the documents submitted by those wishing to initiate the registration process for Nasha Viasna in fact amount to serious violations of legal requirements. Pursuant to article 13 of the Non-Governmental Organizations Act (hereafter "the Act"), one of the documents required by the registering body is a founders' list for the NGO. This list must also contain information on the place of work of each of the organization's founders, and their daytime telephone numbers.

154. The Nasha Viasna founders' list contains false information on a number of people. In this regard, repeated violations have been committed in the form of the provision of unreliable and falsified information about the founding members. The attention of the registration applicants has already been drawn to similar violations in a previous letter regarding the refusal of State registration for Nasha Viasna, dated 2 March 2009.

155. It follows that the Ministry of Justice has not received the organization's founders' list as required under article 13 of the Act. This, according to article 15 (3), paragraph 4, of the Act,

constitutes grounds for refusing Nasha Viasna registration. The claim that the Ministry of Justice had previously not expressed any objection to the letter of guarantee regarding the legal address of Nasha Viasna is unfounded.

156. The letter of guarantee, as with the previous set of documents submitted for registration, was signed by Dmitry Sergeevich Solovyev. Of all the information required, the letter contains only his forename, patronymic and family name, which are not sufficient for identifying the owner of the premises. According to the Nasha Viasna founders' list, as on the previous occasion, Mr. Solovyev's place of residence is 5A Ulitsa Sadovaya, Bolshevik Agro-town, in Minsk district. Attached to the letter of guarantee is a copy of the registration certificate relating to the premises covered by the guarantee, which it states are located in Vitebsk province (in the town of Novopolotsk).

157. In this connection, the Ministry of Justice checked the authenticity of the documents regarding Nasha Viasna's legal address. Although a letter of enquiry was sent to Mr. Solovyev's home address, as registered on the founders' list, on 28 January 2009, no reply has been received. The postal services returned the letter to the Ministry of Justice on 5 March 2009, stating that it had not been possible to deliver it to Mr. Solovyev. The Ministry of Justice established in May 2009 that Mr. Solovyev does not live at the address provided by the founders of Nasha Viasna.

158. In these circumstances, and having received new information and documents on 25 April 2009 relating to the State registration of Nasha Viasna, and taking account of the fact that the property belonging to Mr. D. Solovyev is in Novopolotsk, the Ministry of Justice instructed the Novopolotsk municipal executive committee to investigate the possibility of using these premises as a legal address. Mr. Solovyev, however, categorically refused to grant the representative of the Novopolotsk municipal executive committee access to the premises. Furthermore, Mr. Solovyev did not report to the Ministry of Justice to validate his signatures on the letter of guarantee, and did not indicate a convenient date and time when he would be able to show the premises for inspection.

159. Thus, Mr. Solovyev broke the law by deliberately refusing to allow the competent authorities an opportunity to check that the premises indicated in the letter of guarantee are in appropriate operational condition. As a result, the registering body was not presented with the mandatory appropriately drafted document required under article 13 of the Act which would confirm that the NGO has a legal address. This, under article 15 (3), paragraph 4, of the Act, provides grounds for refusing Nasha Viasna State registration.

160. The suggestion of a possible violation of article 22 of the International Covenant on Civil and Political Rights cannot be considered well founded. All citizens of the Republic of Belarus, including all the founders of Nasha Viasna, enjoy the right to freedom of association. However, like all other citizens, the founders of Nasha Viasna had an obligation to present documents for State registration of their organization to the Ministry of Justice in accordance with the law. They failed to do so. Responsibility for the violations of the law in respect of the drafting and provision of those documents lies with the founders of Nasha Viasna.

161. It should also be noted that pursuant to the Act, in the event that the founders of an organization disagree with a decision taken by the Ministry of Justice, they can appeal to the courts, which was how the founders of Nasha Viasna proceeded.

162. Having studied all the facts connected with the Ministry of Justice's consideration of Nasha Viasna's registration documents, the Supreme Court, by decision of 12 August 2009, refused the appeal lodged by A. Belyatsky, V. Stefanovich and V. Labkovich against the decision of the Ministry of Justice, which it found to be lawful.

163. The refusal to register Nasha Viasna is based on the organization's systematic failure to comply with registration requirements and procedures, and is not connected with the organization's human rights activities.

164. It should also be noted that the reference made in the Special Rapporteurs' communication to the decisions of organizations and bodies that are not connected to the United Nations, and of which Belarus is not a member, is inappropriate.

Observations

165. The Special Rapporteur thanks the Government of Belarus for the detailed responses provided to his communications.

Bolivia

Llamamiento urgente

166. El 25 de marzo de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con el intento de asesinato del Sr. **Miguel Esteben González Bonilla**, director regional del Centro de Estudios Jurídicos e Investigación Social (CEJIS) en el Beni, así como las acciones de intimidación, persecución y violencia perpetradas contra los miembros de esta organización.

167. El CEJIS promueve los derechos de las comunidades indígenas y campesinas y realiza tareas como ayudar a las comunidades a reclamar sus derechos a las tierras comunales.

168. Según la información recibida, el 27 de febrero de 2009, dos hombres que se desplazaban en una motocicleta habrían disparado contra el vehículo de trabajo del Sr. González Bonilla mientras conducía por la ciudad de Trinidad. El disparo habría atravesado el vidrio trasero y por pocos centímetros la bala no habría impactado en su cuerpo.

169. El 24 de febrero al Sr. González Bonilla lo habrían estado siguiendo. Primero lo habría seguido una furgoneta roja y plateada con los cristales tintados, y luego una motocicleta.

170. Cuando se habría dirigido a su casa a las afueras de la localidad, Miguel González Bonilla se habría dado cuenta de que lo seguía la furgoneta. Ésta le habría hecho luces, como si quisiera adelantarle, pero cuando él se habría detenido para dejarla pasar, se habría quedado detrás de él.

171. Luego la furgoneta habría girado ante la casa de Miguel González Bonilla, quien habría girado en dirección contraria y habría observado que todavía lo habría seguido una motocicleta. Cuando la motocicleta habría tenido que abandonar la persecución a causa de la dificultad del terreno, el conductor lo habría insultado a gritos.
172. En varias ocasiones, individuos no identificados habrían llamado a la casa del Sr. González Bonilla y habrían preguntado a sus familiares por el paradero de éste.
173. Tras el reciente ataque, el Sr. González Bonilla habría presentado una denuncia en la policía y en la Fiscalía de Trinidad. Sin embargo, hasta el momento no se le habría brindado protección.
174. Ante el temor por su seguridad, tanto él como su familia habrían abandonado su casa en Trinidad y se habrían ocultado.
175. Este reciente ataque se habría producido tras una serie de actos de intimidación contra personal del CEJIS en Trinidad.
176. En agosto de 2008, unos motociclistas armados se habrían situados ante las oficinas del CEJIS y se habrían quedados allí esperando a que llegaran los empleados, a los que un vecino habría avisado.
177. Unos días después, a principios de septiembre de 2008, los miembros de la organización de oposición Unión Juvenil Benianista habrían tratado de ocupar las oficinas del CEJIS en Trinidad durante una campaña en la que habrían ocupado instituciones gubernamentales y privadas. En esta ocasión las bandas de jóvenes no habrían podido localizar ni las oficinas del CEJIS ni a su personal.
178. Durante este periodo de violencia, el personal del CEJIS habría trabajado desde su casa, ante el temor por su seguridad. Asimismo, numerosos miembros del personal habrían denunciado haber recibido amenazas e insultos a consecuencia de su trabajo.
179. Tras este incidente, en septiembre la comisión de Derechos Humanos dictó medidas cautelares para proteger a los empleados del CEJIS en Trinidad. Sin embargo, las autoridades no habrían proporcionado protección alguna, y hasta enero de 2009 la policía no habría visitado las oficinas del CEJIS para hacer un seguimiento de su situación en cuanto a la seguridad.
180. Otras oficinas del CEJIS habrían sufrido también amenazas y acoso a consecuencia de su trabajo. El 9 de septiembre de 2008, la sede central en la ciudad de Santa Cruz, Bolivia, habrían sido ocupada y saqueada por estudiantes universitarios y miembros de la organización de oposición Unión Juvenil de Santa Cruz, que habrían asaltado las oficinas, destruido material y mobiliario y saqueado y quemado 30 años de archivos del CEJIS.
181. También habrían atacado otras dos ONG que promueven los derechos de las comunidades indígenas y campesinas, oficinas locales del gobierno y dos sedes de medios de comunicación.
182. Se expresó temor que el intento de asesinato contra del Sr. Miguel Esteben González Bonilla y las acciones de intimidación, persecución y violencia perpetradas contra los miembros

del CEJIS podrían estar relacionados con el trabajo del CEJIS de promover los derechos de las comunidades indígenas y campesinas en Bolivia.

Observaciones

183. El Relator Especial lamenta que al finalizar este informe, no se había recibido una respuesta a la comunicación del 25 de marzo de 2009. El Relator Especial considera que al responder a las comunicaciones representa un elemento fundamental para la cooperación de los Estados con el mandato, es por ello que insta al gobierno boliviano a que le proporcione una respuesta tratando los asuntos mencionados.

Brazil

Letter of allegations

184. On 30 January 2009, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the situation of human rights defenders, sent a letter of allegation to the Government, regarding the killing of Mr **Manoel Mattos**, vice-president of the workers' party in the state of Pernambuco, and member of the local bar association's human rights commission. Mr Manoel Mattos was the subject of a communication sent by the then Special Representative of the Secretary-General on the situation of human rights defenders on 1 December 2006.

185. According to the information received, on 24 January 2009, Mr Manoel Mattos was reportedly shot dead at his home by two unidentified men. Mr Mattos was the subject of repeated death threats following his testimony at a federal parliamentary enquiry into death squads in the north-east of Brazil, revealing how these armed groups operated in the border area between the states of Pernambuco and Paraíba. He notably produced a document, in collaboration with the prosecutor's office, in which he exposed over alleged 100 homicides by member of local death squads. Mr Mattos also delivered a testimony to Ms Asma Jahangir, the then UN Special Rapporteur on Summary, Arbitrary and Extra-Judicial executions during her visit to Brazil in 2003.

186. It was reported that despite the repeated threats, the protection provided by the federal police to Mr Santos was withdrawn, reportedly because it was deemed to be no longer necessary. Grave concern was expressed that the killing of Mr Manoel Mattos might be linked to his non-violent activities in defence of human rights.

Response from the Government

187. In a letter dated 7 April 2009, the Government of Brazil responded to the communication, informing that Mr Manoel Mattos was receiving death threats because of the denunciations and the investigation that he was conducting regarding a death squad, composed of policemen operational in the cities of Itambé and Pedras de Fogo, on the border between the States of Pernambuco and Paraíba. Mr Mattos then counted on the protection of the Federal Police until 31 March 2004, when the service was suspended due to disagreements between him and the policemen who were protecting him. These policemen alleged that Mr Mattos had disobeyed the protection rules established by the relevant protection scheme. The decision to suspend the

protection afforded to Mr Mattos was a result of administrative procedures established by the Federal Police. Therefore, the statement that the protection was suspended because it was deemed unnecessary is not accurate. Furthermore, since 2006, when the Human Rights Defenders Protection Programme was implemented in the State of Pernambuco, Mr Mattos had never requested his inclusion in this Programme.

188. The investigation on this killing is being conducted by the Civil Police of Paraíba, with the cooperation of the Federal Police and the Prosecutor's Office. The inquiry number 002.2009.000127-8 was established before the Paraíba State's Court of Justice (confidential process). The Human Rights Defense Council of the Pernambuco State has filed a request of federalization of the investigation to the Attorney General of the Republic.

189. The main perpetrators involved in the killing of Mr Mattos have been identified and criminally charged. Four of them have been arrested and an arrest warrant has been issued against a fifth one. The Government stressed the efforts that have been made in order to promote more integration between the Federal Police and the State Secretariats for Security and Social Defense of Paraíba and Pernambuco, in order to identify all the members of the "death squad". In this regard, the results of the investigations in the area conducted by the Federal Police include: "Operação Alcaides" which repressed, among other crimes, the involvement of political leaders in the region of Aguas Belas with the hired killing; "Operação Aveloz" which has curbed the activity of the death squads in the city of Caruaru; and the "Operação Exodus" which has dismantled the action of armed militias involving civil and military policemen in robbery and murdering in the city of Olinda.

Observations

190. The Special Rapporteur thanks the Government for its response, but regrets that at the time of the finalization of this report, the Government had not transmitted a reply to several of his communications sent in 2008, 2007, 2006, 2005 and 2004. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

Bulgaria

Urgent appeal

191. On 13 January 2010, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding the killing of **Mr. Bobi Tsankov**, popular radio host and prominent crime journalist who has written a book and a series of articles to expose the activities of Bulgarian crime figures.

192. According to information received, on 5 January 2010 at around 12:30 p.m., at least two gunmen opened fire on Mr. Tsankov and two of his bodyguards on Aleksandur Stamboliiski Boulevard in Sofia. The two men were critically wounded and Mr. Tsankov was shot dead. The gunmen reportedly escaped on foot.

193. Later in the day, a Ministry of Internal Affairs task force reportedly arrested three reputed crime leaders, Mr. Stefan (Sako, or the Jacket) Bonev, Mr. Krasimir Marinov and Mr. Nikolai Marinov. The charges against them have not been disclosed.

194. Mr. Tsankov had reportedly survived two explosions at his home in 2003 and 2004. He had allegedly been receiving numerous death threats since his book “The Secrets of the Gangsters”, based on his contacts with criminal leaders such as the drug leader Mr. Anton Miltenov, and alleged links between mafia figures and businessmen, was published in November 2009. He was also preparing to publish a new book regarding the activities of a drug-trafficking group.

195. Concern was expressed that Mr. Tsankov has been killed as a result of his work as a journalist in reporting about organized crime in Bulgaria.

Response from the Government

196. In a letter dated 30 March 2010, the Government responded to the communication as follows.

197. Around 12:30 on 5 January 2010, in the centre of Sofia, in the entrance of the building at 30, Alexander Stamboliyki Blvd., unknown individuals fired against Mr. Boris (Bobi) Nikolov Tsankov, radio host.

198. Mr. B. Tsankov was known to the police authorities and to the Prosecutor’s Office as a person engaged in deception and fraud, who had been repeatedly convicted for these criminal activities. Mr. B. Tsankov died as a result of severe blood loss and cerebral damage caused by firearm wounds in the head and torso. Two other individuals who were in the entrance of the building were wounded in the shooting.

199. On the same day, the competent Bulgarian authorities started an investigation of the murder and filed criminal charges against an unknown perpetrator. The crime was qualified under Article 116, Paragraph 1, item 6, and Article 115 of the Penal Code of the Republic of Bulgaria.

200. The Government of the Republic of Bulgaria wishes to point out that beyond being popular for his radio hosting and writing a book and a series of articles on the organized crime, Mr. B. Tsankov was known to the police authorities and to the Prosecutor’s Office as a person engaged in deception and fraud, who had been repeatedly convicted for these criminal activities. It is worth drawing attention that his book “The Secrets of the Gangsters” was based on his contacts with criminal figures, which is correctly indicated in the information.

201. The other two individuals injured in the shooting in Sofia on 5 January 2010 were not bodyguards of B. Tsankov. They were not connected in any way either with the crime or with the murdered Boris Nikolov Tsankov. Therefore, the summary of the case, included in the Special Rapporteurs’ letter, is only partially accurate.

202. Numerous activities were undertaken by the competent Bulgarian authorities in the course of the judicial investigation: 38 persons were questioned as witnesses, 14 expert analyses were requested, including forensic, ballistic, dactyloscopic, technical and physico-chemical tests.

Information was required from banking institutions and from mobile telecommunications operators. Films from surveillance security cameras near the crime scene were also added to the evidence. The homes of two persons – Krassimir Andreev Marinov and Nikolay Andreev Marinov were searched and evidence was collected from there with a view to checking the version that the two had ordered the assassination of Mr. B Tsankov because he disclosed to the media and to the authorities in the course of ongoing criminal proceedings information about their criminal activities.

203. On the basis of the analysis of the operational and investigative activities undertaken and the evidence gathered on the case, charges were brought against Mr. Krassimir Andreev Marinov, who instigated, in compliance with his brother Mr. Nikolay Andreev Marinov, an unknown perpetrator to commit the deliberate assassination of Mr. B. Tsankov.

204. The Sofia City Prosecution filed a proposal to the Sofia City Court for Mr. Krassimir Andreev Marinov to be detained in custody. After a court hearing on 10 January 2010, the court disregarded the claim of the prosecution and Mr. K. Marinov was freed under obligation to report regularly at the local police station.

205. Mr. Nikolay Andreev Marinov is hiding from the pre-trial judicial authorities and the search for him continues to this moment. The criminal proceedings are monitored by a team of prosecutors from the Supreme Prosecutor's Office. Police officers from the Sofia City Police Directorate and the National Police Directorate are investigating the case. Hypotheses concerning the motives and the perpetrators of the crime have been launched and are being checked.

206. It has been proved beyond any doubt that the other two individuals injured in the shooting were not connected in any way either with the crime or with the murdered Mr. B. Tsankov.

207. All the new information on the pre-trial proceedings is analysed both independently and through the prism of the available evidence, and all necessary and possible activities connected with the investigation and with the operational-investigative measures are conducted with a view to guaranteeing objective criminal proceedings and for finding the perpetrators of the incriminated act.

208. The murderers of Mr. B. Tsankov have not been identified yet. It is an important fact that criminal charges have been filed against a person suspected of the murder of Mr. B. Tsankov. However, no concrete results can be announced before the completion of the investigation.

209. Murders committed through incitation as a form of complicity under Article 20, paragraph 3 of the Penal Code of the Republic of Bulgaria are a fact, albeit they are rare in the country. These criminal acts pose a high degree of public threat and reveal a good organisation on the part of the perpetrators. Teams of the best professionals of the Ministry of Interior take part in the investigation conducted under the direct guidance of the Prosecutor's Office of the Republic of Bulgaria. The criminal acts connected with or committed by organized crime in the country are difficult to prove, and the steps taken to investigate them do not always produce the results desired and awaited by society within short time frame.

210. The Constitution of the Republic of Bulgaria contains a number of important provisions which guarantee the freedom of opinion and expression, including the freedom of the press.

211. Article 39 of the Constitution states that “(1) Everyone is entitled to express an opinion or publicize it through words, written or oral, sound, or image, or in any other way. (2) This right shall not be used to the detriment of the rights and reputation of others, or for the incitement of a forcible change of the constitutionally established order, the perpetration of a crime, or the incitement of enmity or violence against anyone”.

212. Article 40, paragraph 1 stipulates that “The press and the other mass information media are free and shall not be subjected to censorship”.

213. Article 41, paragraph 1 states that “Everyone shall be entitled to seek, obtain and disseminate information. This right shall not be exercised to the detriment of the rights and reputation of others, or to the detriment of national security, public order, public health and morality”.

214. In defence of public interest, Article 39, paragraph 2 specifies that “This right shall not be used to the detriment of the rights and reputation of others, or for the incitement of a forcible change of the constitutionally established order, the perpetration of a crime, or the incitement of enmity or violence against anyone”.

215. Article 40, paragraph 2 states that “An injunction or a confiscation of printed matter or another information medium shall be allowed only through an act of the judicial authorities in the case of an encroachment on public decency or incitement of a forcible change of the constitutionally established order, the perpetration of a crime, or the incitement of violence against anyone. An injunction suspension shall lose force if not followed by a confiscation within 24 hours”.

216. In addition, the Law for the Radio and Television provides for the conformity of the specific legal norms regarding the radio and television broadcasts with above-mentioned constitutional guarantees. Article 10, paragraph 1 of the Law proclaims the following principles which are mandatory for radio and television broadcasts:

1. The right to free expression of opinion;
2. The right to information
3. Protection of the secrecy of sources of information;
4. Protection of personal privacy;
5. Broadcasts which suggest intolerance among citizens shall not be tolerated;
6. Broadcasts which contradict good behaviour and morals, particularly if they contain pornographic materials, hailing or exonerating cruelty or violence, or incite hatred based on race, sex, religion or national origin shall not be allowed;

7. The right to reply;
8. Copyright and neighbouring rights in broadcasts and programmes.

217. Article 11 of the Law stipulates free expression of every opinion in radio and television broadcasts, as well as the freedom of journalists in their efforts to gather and present information. Articles 14(3) and 18 of the Law regulate the right of everyone if feeling offended by radio or television broadcast to demand and obtain a copy of the said broadcast, and to use their right of reply which shall be subsequently provided. Article 16, paragraph 1 prohibits radio and television operators to include information in their broadcasts about the personal life of citizens without their explicit consent.

218. In its Opinion No.7, dated 4 June 1996, the Constitutional Court of the Republic of Bulgaria referred to Articles 39, 40 and 41 of the Constitution as reaffirming the basic human rights of the citizens to express freely their opinions, to disseminate them and to be entitled to seek, receive and disseminate information. The said provisions protect the right of the individual to free expression and dignity as an equal partner in the social community. Certain restrictions of the exercise of these rights shall be deemed admissible in cases where the protection of order, equally protected constitutional rights and interests is necessitated.

Observations

219. The Special Rapporteur thanks the Government for its detailed response provided to his communication.

Burundi

Appel urgent

220. Le 26 novembre 2009, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, a envoyé un appel urgent au Gouvernement concernant l'annulation de l'agrément du **Forum pour le Renforcement de la Société Civile (FORSC)** et la situation de MM. **Pacifique Nininahazwe** et **Pierre Claver Mbonimpa**. FORSC est une plateforme regroupant 146 organisations de la société civile burundaise. M. Nininahazwe est le délégué général du FORSC et M. Mbonimpa, le président de l'Association pour la Protection des Droits de l'Homme et des prisonniers (APRODH). Selon les informations reçues :

221. Le 23 novembre 2009, l'agrément du FORSC, délivré en mai 2006, aurait été annulé par le Ministère de l'Intérieur au motif que les agréments de certaines organisations membres du FORSC ne relevaient pas de la compétence du ministère de l'Intérieur. Il est allégué que cette annulation ferait suite à une lettre ouverte signée par le FORSC et adressée au Président de la République le 18 novembre 2009. Ce courrier dénonçait la recrudescence des menaces à l'encontre des défenseurs burundais. La lettre se referait en particulier aux menaces reçues par MM. Nininahazwe et Mbonimpa et à la stigmatisation de leurs organisations.

222. Il est allégué que MM. Nininahazwe et Mbonimpa auraient reçu des menaces de mort suite à la campagne initiée par le FORSC appelant notamment le Président de la République à

diligenter des enquêtes sur les décès de M. Ernest Manirumva, vice-président de l'organisation anti-corruption OLUCOME, et de M. Salvator Nsabirihho, qui aurait succombé à ses blessures après avoir été brutalement interrogé par la police. Il est allégué que ces menaces de mort auraient été proférées par des agents du service national de renseignement.

223. Des craintes sont exprimées que la révocation de cet agrément ainsi que les menaces reçues par MM Nininahazve et Mbonimpa soient liées aux activités non violentes de promotion et de protection des droits de l'homme du FORSC. Compte tenu des menaces de mort proférées à l'encontre de MM Nininahazve et Mbonimpa, des craintes sont également exprimées quant à leur intégrité physique et mentale.

Observations

224. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à de nombreuses communications envoyées en 2009, 2008, 2007, 2006, 2005 et 2004. Il considère les réponses à ses communications comme partie intégrante de la coopération des gouvernements avec son mandat. Il exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celles-ci.

Cambodia

Urgent appeal

225. On 17 February 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding criminal charges made against several community representatives, and in particular **Chan Vichet, Ly You Leng** and **Khieu Bunthoeun**, from the Dey Krahorm community in Phnom Penh. In this regard, the Special Rapporteurs recalled the public statement made on 30 January 2009 by the Special Rapporteur on adequate housing regarding the forcible eviction during the night of 23 and 24 January 2009 of over 130 families from Dey Krahorm.

226. According to information received, as at 16 February 2009, six Dey Krahorm community representatives were facing a total of 14 criminal charges, according to their defence lawyers. The community representatives had for long been active in supporting their community to negotiate fair compensation for their homes in the event that they would be evicted from Dey Krahorm. The negotiations were conducted with the Municipality of Phnom Penh and the 7NG Construction company.

227. Following the eviction on 24 January 2009, the Phnom Penh Municipal Court held a hearing on 11 February against Chan Vichet, a community representative leading the evictees' attempts to advocate for fair financial compensation for the loss of their homes due to the eviction, and two other Dey Krahorm community representatives named Ly You Leng and Khieu Bunthoeun. They were charged with destruction of property and physical assault.

228. The charges relate to damages caused in December 2007 to a bulldozer belonging to the 7NG company. Some villagers from Dey Krahorm threw stones at the machine when it was driven on to their land, for fear that it would be used to demolish their homes. Chan Vichet was

charged with participating and inciting the violence despite evidence from multiple eyewitnesses that he in fact tried to calm the situation and told villagers not to use violence in any manner.

229. On 16 February 2009, the Phnom Penh Municipal Court announced its verdict on the trial. According to oral reports, the court convicted the three community representatives to one year and a half each of suspended prison sentences under court surveillance for five years. Chan Vicheth and one of the other representatives were jointly sentenced to pay 800,000 riels (USD 200) to the company for destruction of property, while all three representatives were ordered to jointly pay up to 1.2 million riels (USD 300) to compensate medical fees for injuries endured during the incident.

230. Chan Vichet was also summoned to the same court and interviewed on 17 February by an investigating judge on another criminal case against him, alleging forgery and defamation. This case relates to the same charges that were originally filed against Chan Vichet and other villagers in 2005. However, the case against them was closed when another investigating judge decided to drop the charges. Without any new evidence being presented or new investigation being done, the prosecutor filed the same charges again in 2008.

231. Concerns were expressed that charges against the above-mentioned community representatives of Dey Krahom, similar to those made against many other human rights defenders across the country, were not based on solid evidence but were rather used to intimidate human rights defenders and community activists defending land and housing rights.

Response from the Government

232. In a letter dated 27 May 2009, the Government responded to the urgent appeal, informing that the verdict No. 82C dated 5 November 2008 issued by the relevant Court is based on the legal evidence that Mr. Chan Vichet, Mr. Ly You Leng and Mr. Khiev Bonthoeun have been convicted of committing acts of injuries and damaging the properties of other people, in accordance with the law in Cambodia (art. 41-52 of the Transitional Penal Code adopted during the UNTAC period). There was also the accusation that Mr. Vichet has committed forgery and defamation as regard to the related case No. 1728 issued on 5 September 2008, which is being under the investigation by the Municipal Court. The City Hall (the Phnom Penh Municipality) has not made any ban or prohibition of the meetings or assemblies in which the people can exercise their rights of speech, provided that those acts of gathering or relevant actions shall not be in breach of the rights and the honour of others (including custom, social, order and national security) as stipulated in article 41 of the Cambodian Constitution. It should also be noted that over the past, meetings or assemblies organized by the communities to exercise their rights to freedom of expression have been permitted and protected by the City Hall authorities.

Letter of allegations

233. On 3 April 2009, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations to the Government regarding the upheld conviction of Mr. **Thach Saveth**, also known as Mr. **Chan Sopheak**, for the murder of Mr. Ros Sovannareth, a Steering Committee member of the Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC) and the union's representative at the Trinuggal Komara factory in Phnom Penh. Mr.

Ros Sovannareth was shot dead by two men on a motorbike in Phnom Penh on 7 May 2004. His murder came less than four months after the virtually identical murder of Mr. Chea Vichea, the FTUWKC's national president. The mission of the FTUWKC is to protect the legitimate rights and interests of workers and staff members. FTUWKC, in accordance with the regulations of the labour and other relevant laws of the Kingdom of Cambodia, actively safeguards workers' political rights, their right to work and their cultural rights; participates in coordinating labor relations and makes efforts to promote the economic development and a long-term social stability of the country.

234. According to the information received, on 18 February 2009, the Court of Appeal upheld the Phnom Penh Municipal Court conviction of Mr. Sopheak in February 2005 in which he was found guilty of the murder of Mr. Sovannareth and sentenced to 15 year's imprisonment. On 11 February 2009, an appeal hearing on Mr. Sopheak's case took place which lasted less than an hour. One of the witnesses of the assassination of Mr. Sovannareth was present in court in order to testify, at the request of the defence lawyer. However, presiding Judge Um Sarith refused to give him the floor, and preferred to rely upon written statements of witnesses, that were gathered by the police. According to reports received, there were a number of irregularities with the hearing, including the fact that again the prosecution witness statements were read out and there was no cross-examination.

235. At the original trial in 2005, the conviction of Mr Chan Sopheak by the Municipal Court was based on prosecution witnesses who did not appear in court, and therefore could not be cross-examined by defence lawyers. Defence witnesses who provided alibi testimonies, acknowledging the fact that Mr. Chan Sopheak was travelling between Anlong Veng and Siem Reap on the day of Mr. Ros Sovannareth's murder, were ignored. Mr. Chan Sopheak was convicted on the basis of written statements, prepared by the police, by four eyewitnesses to Mr Ros Sovannareth's murder who allegedly identified him. None of these witnesses were interviewed by the court prosecutor or investigating judge who examined the case. The witnesses' written statements contained a glaring inconsistency: some of the witnesses reportedly said that Sopheak resembled the gunman, while others said he looked like the shooter's accomplice, his motorcycle driver.

236. It is worth noting the similarities of the case of Mr. Sopheak and the case of Messrs. Born Samnang and Sok Sam Oeun, who were unjustly convicted of killing Mr. Chea Vichea, FTUWKC National President. The latter were finally released on bail on 31 December 2008 upon a ruling of the Cambodian Supreme Court. The Supreme Court acknowledged the lack of evidence against them and the need for further investigation. Mr Chan Sopheak was arrested by the same Toul Kork district police as Messrs. Born Samnang and Sok Sam Oeun, led by deputy chief Hun Song, who arrested Born Samnang and Sok Sam Oeun. Mr Hun Song was reportedly involved in the framing of the two men for Chea Vichea's murder, including by allegedly forcing an initial confession to the killing by Born Samnang. More recently, in 2006, Mr Hun Song was fired from his position after being accused of ordering the execution of a robbery suspect.

237. Concern was expressed for Mr. Chan Sopheak's right to a fair trial. In this regard, the mandate-holders recalled the findings of the ILO's Committee on Freedom of Association, which stated in its 351st report that Chan Sopheak "was sentenced to 15 years in prison for the murder of Mr. Ros Sovannareth, in a trial lasting one hour that was characterized by breaches of procedural rules and the absence of full guarantees of due process of law" (para. 251). The

Committee deplored “the fact that Mr. Thach Saveth has been sentenced to prison for the murder of Mr. Ros Sovannareth, in a trial closely mirroring that of Born Samnang and Sok Sam Oeun in that it had been characterized by the absence of full guarantees of due process. In these circumstances, the Committee must once again stress the importance of ensuring full respect for the right to freedom and security of person and freedom from arbitrary arrest and detention, as well as the right to a fair trial by an independent and impartial tribunal” (para. 252).

Urgent appeal

238. On 26 May 2009, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government received regarding **Mr. Kong Sam Onn**, lawyer of Ms. Mu Sochua.

239. According to the information received, on 24 April 2009, Ms. Mu Sochua, an opposition member representing Kampot Province for the Sam Rainsy Party in the National Assembly, alleging criminal defamation filed a law suit against Prime Minister Hun Sen before the Phnom Penh Municipal Court. She claimed that a speech the Prime Minister had given on 4 April, in which he had referred to a woman from Kampot behaving in a “provocative way”, who “lunged towards a man to kiss him, so much so that the buttons [of her blouse] popped out”, had been directed at her. Allegedly, the speech used the term “strong legs” to describe the woman, an offensive derogatory term in Khmer. Earlier, on 23 April, Ms. Mu Sochua and her lawyer, Mr. Kong Sam Onn, held a press conference to explain the legal case against the Prime Minister, during which Ms. Mu Sochua stated her intention to file a suit, and where her lawyer provided information on the legal grounds for bringing the action in court.

240. On 24 April 2009, the Prime Minister, represented by his lawyer, Mr. Ky Tech, filed a counter-complaint before the same court in Phnom Penh. He alleged that both the politician and her lawyer, had defamed him during the press conference. The Prime Minister is seeking ten million riels (2,500 USD) in compensation from each of the concerned persons. Mr. Kong Sam Onn was summoned to appear before an investigating judge for questioning with regard to the Prime Minister’s counter-complaint on 7 May 2009.

241. The Prime Minister’s lawyer, Mr. Ky Tech, who is a former President of the Bar Association, also lodged a complaint against Mr. Kong Sam Onn before the Bar Council, for an alleged breach of the lawyers’ code of conduct in accordance with the Law on the Bar. The current President of the Bar has formed an ad-hoc committee to investigate the allegations. This committee has summoned the concerned lawyer to answer questions at the Bar on Monday, 25 May 2009. It will then report back to the Bar President who will subsequently refer the matter to the Bar Council to decide on any disciplinary action.

242. There is serious concern that Mr. Kong Sam Onn will be excluded from the Cambodian Bar Association as a result of providing legal advice to Ms. Mu Sochua and representing her in public. Mr. Kong Sam Onn has represented the Sam Rainsy Party over many years, having acted for both Mr. Sam Rainsy and Mr. Dam Sith in previous legal cases. This is, however, the first time he himself has been threatened with disciplinary and legal action for discharging his functions. Both the legal case and the disciplinary investigation are likely to have a chilling effect on the legal profession, particularly in cases involving high-ranking politicians.

243. Concern was expressed that the proceedings taken against Ms. Mu Sochua's lawyer might constitute acts of harassment and intimidation in order to prevent the lawyer from providing legal advice to her and representing her in public.

Urgent appeal

244. On 28 July 2009, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders and the Special Representative on the situation of human rights in Cambodia, sent an urgent appeal to the Government regarding **recent instances of defamation and disinformation lawsuits** filed mostly against journalists, opposition members of parliament, lawyers and other persons expressing their views in a peaceful manner on matters of public interest.

245. According to information received, on 8 June 2009, Mr. Soung Sophorn, a 22-year old law student and local leader of the SRP youth wing was charged, arrested and sentenced with US \$1,250 for defamation after he wrote slogans criticising the government on the walls of his private house. It has been reported that he belongs to one of the hundreds of families embattled with the Shukaku company and Phnom Penh Municipality to defend their rights to their lands and housing in the disputed Boeng Kak lake case where 4,000 families are under threat of eviction.

246. On 22 June 2009, the National Assembly voted to lift the parliamentary immunity of Mr. Ho Vann, a member of the opposition Sam Rainsy Party (SRP). Mr. Ho Vann is facing charges of defamation following a complaint lodged against him on 27 April by 22 Royal Cambodian Air Force (RCAF) military officers, who were allegedly offended by a comment Mr. Ho Vann made in relation to post-graduate degrees given to RCAF officials by a Vietnamese military institution. Mr. Ho Vann had allegedly questioned the authenticity of those degrees in an interview given on 20 April to reporters. The Municipal Court of Phnom Penh began an initial hearing of his case on 17 July 2009, when in addition to Mr. Ho Vann, Mr. Neou Vannarin, a reporter from the Cambodia Daily who covered comments allegedly made by Ho Vann in an article, also faced charges of defamation.

247. On 26 June 2009, a Phnom Penh court sentenced Mr. Hang Chakra, editor-in-chief of the newspaper Khmer Machas Srok (Khmer Landowner), one of the only two remaining opposition affiliated newspapers, to one year in prison on charges of disinformation after the newspaper published articles concerning alleged corruption in the office of the Deputy Prime Minister Sok An.

248. On 5 July 2009, a lawsuit was filed against Mr. Dam Sith, editor-in-chief of Moneaksekar Khmer newspaper, by Mr. Long Dara, a government lawyer, for publishing articles between February and May 2009 which included stories about civil servants and the removal of former RCAF Commander-in-Chief Mr. Ke Kim Yan. Mr. Dam Sith has reportedly been accused of using false information, and has closed the newspaper on 10 July 2009 allegedly to avoid criminal prosecution. At the same time, Mr. Dam Sith defected to the ruling Cambodian People's Party.

249. On 14 July 2009, Mr. Moeun Sonn, president of the Khmer Civilization Foundation, a nonprofit organisation, was sentenced in absentia to two years in prison on charges of disinformation after he raised concerns that a new lighting system in the Angkor Wat temple complex could damage the site.

250. Concern was expressed that the recent increase in the number of defamation and disinformation lawsuits filed mostly against politicians, journalists and other persons expressing their views in a peaceful manner on matters of public interest might represent an attempt to stifle freedom of expression in Cambodia. Without prejudging the outcomes of the trials of Ms. Mu Sochua and Mr. Ho Vann, further concern was expressed that should they be convicted of disinformation rather than defamation, they might permanently lose their seats in the National Assembly, which would undermine the rule of law and democracy in Cambodia.

Response from the Government

251. In a letter dated 15 September 2009, the Government responded to the communication, informing that Cambodia is a multi-party pluralistic society, where democracy and human rights are fully guaranteed by its 1993 Constitution. The Cambodian Constitution recognizes the individual rights, freedom of expression and other fundamental rights. Since 1993, Cambodia's state of democracy and the overall human rights situation have continuously been observed in a significant progress. At present, Cambodia has thousands of civil society organizations, as well as free press and trade unions which have been operating in the country. Out of that number, Cambodia has at least eleven foreign human rights organizations, including the National Democratic Institute (NDI) and the International Republican Institute (IRI), which are working mainly on human rights-related issues. Cambodia has also the Office of the United Nations High Commissioner for Human Rights and the regular visits of the United Nations Special Rapporteur on Human Rights in Cambodia. Moreover, with regard to freedom of the press, Cambodia has almost 600 newspapers, journals and magazines, 40 radio stations, and seven television channels. If this is not enough, the people of Cambodia also have unobstructed access to all kinds of foreign media, such as the Voice of America and Radio Free Asia, Cable News Network, just to name a few. Local media supporting or leaning to the opposition party are allowed to have a complete freedom to publish and flourish it in the country. Some of the media have been critical of the Government on a daily basis. The people of Cambodia, therefore, enjoy largely freedom of the press and freedom of expression in the country.

252. With respect to the recent courts verdicts on defamations and disinformation, it is the Court's view that they are delivered in compliance with the law established by the United Nations Transitional Authority in Cambodia (UNTAC), as provided for in art. 61 on "Incitement to Discrimination", art. 62 on "Disinformation", and art. 63 on "Defamation and Libel". The sentences delivered by the Court are aimed at protecting the individual rights, as well as the security and stability of the country. Like any other democratic country in the world, Cambodia cannot let the proliferation of voluntary public defamation and disinformation to create social disorder, which is detrimental to the well-being of the society and the dignity of all citizens. In a democratic society, freedom of expression shall be exercised with responsibilities. Therefore, the rule of law is fundamental, particularly in ensuring that people's dignity and honour are well respected and protected. Freedom of expression is not absolute and it should not allow one person to defame another person. It also does not permit a campaign of disinformation to take place repeatedly. In the face of this growing defamation and disinformation campaign to smear

the reputation of the leaders, the Royal Government of Cambodia has the right to resort to justice and due process of law, such as in the cases of Ms. Mu Sochua's defamation against Prime Minister Samdech Hum Sen and Hang Chakra's engagement in the campaign of disinformation. The recent verdicts by the Cambodian Court on both cases are carried out in compliance with the existing laws in relation to those offences. The prevailing laws and regulations concerning defamation and disinformation exist worldwide, particularly in developed countries, in order to protect and guarantee the rights and honour of everyone alike. Therefore, democracy, respect for human rights and freedom of expression must be in compliance with the rule of law. The Government, on its part, is aware of the democratic process in the country, including the practice of freedom of expression that it has strived for with greater tolerance. All of the facts mentioned above clearly demonstrate that Cambodia has and, remains to, full commitments to the promotion and protection of human rights and respects for other fundamental freedoms in the country.

Observations

253. The Special Rapporteur thanks the Government for its responses, but regrets that at the time of finalizing the present report, the Government had not transmitted a reply to his communications of 26 May 2009, 3 April 2009, 21 July 2008, 26 June 2008, 20 November 2007, 23 August 2007, 2 August 2007, 7 May 2007, 1 December 2006, 20 October 2006, 21 August 2006, 13 July 2006, 26 June 2006, 28 February 2006, 6 January 2006, 28 October 2005, 14 October 2005, and 6 September 2005. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

Cameroon

Lettre d'allégations

254. Le 7 janvier 2009, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants, a envoyé une lettre d'allégations au Gouvernement concernant la situation de M. **Bernard Njionga**, président, M. **Isaac Difakoué**, vice-président et MM. **Nono Théophile et Mowha Franklin**, membres de l'Association Citoyenne de Défense des Intérêts Collectifs (ACDIC). L'ACDIC est un mouvement citoyen qui défend les droits des citoyens au Cameroun. M. Njionga est aussi Directeur du Journal 'La Voix du Paysan' et l'ex président de SOS Faim Belgique. Selon les informations reçues :

255. Le 10 décembre 2008, vers 6h00, MM. Njionga, Théophile et Franklin auraient été arrêtés à Yaoundé. L'ACDIC avait prévu d'organiser une manifestation pacifique devant le Ministère de l'Agriculture à Yaoundé, le jour du 60ème anniversaire de la Déclaration Universelle des Droits de l'Homme, afin de protester contre la corruption alléguée au sein du gouvernement. Quand les premiers membres de l'ACDIC se seraient rassemblés dans les bureaux de l'organisation, un groupe de policiers serait arrivés et aurait bloqué l'entrée des bureaux alors

que plusieurs autres membres étaient en train d'arriver. Une heure plus tard, la police anti-émeute du Groupe Mobile d'Intervention (GMI), serait arrivée sur les lieux. Alors que la tension commençait à monter entre la police et les membres de l'ACDIC, la police aurait demandé à tous les membres qui se trouvaient à l'intérieur des bureaux de l'ACDIC de sortir, et elle aurait demandé à parler à M. Njongang.

256. Par ailleurs, alors que certains manifestants auraient tentés de rester dans les bureaux, la police aurait agressé certains d'entre eux. MM. Théophile et Franklin auraient été sévèrement passés à tabac et leur état aurait nécessité une assistance médicale et des points de suture. Il est allégué que MM. Théophile et Franklin auraient été violentés au moment où ils entraient dans le véhicule de police pour être interrogés. La police aurait saisi dans les bureaux de l'ACDIC du matériel destiné à la manifestation.

257. Neuf manifestants, parmi lesquels les membres de l'ACDIC cités ci-dessus, auraient été arrêtés et conduits au poste de police central n°1. Ils auraient tous été libérés dans la soirée du 11 décembre et auraient reçu l'ordre de comparaître devant le tribunal dans la matinée du 12 décembre. Suite à cette comparution, tous les défenseurs auraient été libérés, mais les charges pour « manifestation illégale » seraient toujours pendantes. Ils seraient sommés de comparaître à nouveau le 31 janvier 2009.

258. Des craintes sont exprimées quant au fait que l'arrestation de M. Njonga ainsi que le passage à tabac de MM. Théophile et Franklin soient liés à leurs actions légitimes en faveur des droits de l'homme au Cameroun.

Réponse du Gouvernement

259. Dans une lettre datée du 30 mars 2009, le Gouvernement a accusé réception de la lettre d'allégations et a indiqué que celle-ci a été transmise aux autorités camerounaises compétentes pour suite à donner.

Lettre d'allégations

260. Le 13 mars 2009, le Rapporteur spécial, conjointement avec Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé une lettre d'allégations sur **les affrontements qui ont opposés les forces de police camerounaises à des manifestants, entre le 25 et le 29 février 2008**. Selon les informations que nous avons reçues, 139 personnes auraient perdues la vie au cours de ces manifestations. Un projet de modification constitutionnel, conjugué à la hausse des prix des carburants et des denrées alimentaires, aurait poussé une partie de la population à manifester. Au total, 31 villes auraient été touchées par ces manifestations.

261. Selon les informations reçues, l'armée et des forces spéciales d'intervention ont été appelées en renfort de la police afin de conduire certaines opérations de maintien de l'ordre. Ceux-ci ont utilisés des armes telles que des camions lance eau, du gaz lacrymogène et des grenades assourdissantes. Plusieurs intervenants possédaient également des matraques, des boucliers et des armes à feu. Certains témoignages font état de l'utilisation de pistolets et de

mitrailleuses légères, positionnées sur des pick-up, notamment dans la région de Bonabéri et de Kumba. Ces armes ont été régulièrement utilisées à l'encontre de manifestants. Plusieurs individus ont été tués par des forces de sécurité, sans sommations préalables et de manière indiscriminée.

262. Le 25 février 2008, **un décès par** balle est survenu au cours d'un affrontement entre des gendarmes et certains manifestants à Douala. Après que des gaz lacrymogènes furent lancés sur des manifestants qui brûlaient des pneus, une femme gendarme a été désarmée par la foule et brièvement séquestrée. Lorsque des renforts sont arrivés, les forces de l'ordre ont tiré à balle réelle sur la foule, bien qu'ils aient eu les mains en l'air et qu'ils aient déjà relâché la gendarme.

263. Une **vingtaine de personnes** ont perdu la vie lors d'une marche pacifique regroupant des milliers de jeunes, qui avait pour objectif la rencontre du gouverneur de la province du Littoral, le 27 février 2008. Après avoir été « escortés » par le sous-préfet de l'arrondissement de Daouala IV e jusqu'au pont du Wouri, les forces de l'ordre ont attaqué les manifestants. Des gaz lacrymogènes furent lancés dans la foule, aidés par des hélicoptères déployés pour cette occasion. Des balles réelles ont également été tirées par des membres des forces de l'ordre. Certains manifestants ont été arrêtés, d'autres se sont jetés à l'eau afin d'éviter les gaz, les balles et les piétinements. Plusieurs se sont noyés faute de savoir nager. Les jeunes arrêtés furent victimes de mauvais traitement; les soldats leur ont marché dessus et les ont frappés avec les pieds et divers instruments, tel que crosses et matraques.

264. Le 27 février 2008, **cinq jeunes** ont tués par balles à Bafoussam, par des forces de l'ordre. Ceux-ci ont répondu à des jets de pierres lancés par les victimes. Le même jour, à Kumba, alors qu'aucune manifestation n'avait lieu, des militaires ont ouvert le feu sur des personnes marchant en groupe de plus de trois, ce qui a causé la mort de trois individus.

265. Des militaires et des éléments du Groupement spécial d'intervention, patrouillant le secteur du quartier de Ndogpassi 3, à Douala, auraient tirés indistinctement sur plusieurs individus le 27 février 2008, avant d'atteindre mortellement deux personnes.

266. Les causes de décès de certaines victimes des affrontements auraient été dissimulées. Peu de certificats de genre de mort, qui permettent d'obtenir un certificat de décès, ont pu être obtenus par les familles des victimes. Certains documents seraient également erronés et présenteraient les causes de décès comme de simples traumatismes.

Réponse du Gouvernement

267. Dans une lettre datée du 30 mars 2009, le Gouvernement a accusé réception de la lettre d'allégations et a indiqué que celle-ci a été transmise aux autorités camerounaises compétentes pour suite à donner.

Observations

268. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse aux communications en date du 13 mars 2009, 7 janvier 2009 et du 14 octobre 2008. Il considère les réponses à ses communications comme partie intégrante de la coopération des gouvernements avec son mandat. Il exhorte le Gouvernement à répondre au plus vite aux craintes

exprimées dans celles-ci, notamment en fournissant des informations précises sur les enquêtes menées afin de traduire en justice les auteurs des faits et les mesures de protection prises.

Chad

Appel urgent

269. Le 17 novembre 2009, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, a envoyé un appel urgent sur la situation de MM. **Michel Barka**, président de l'Union syndicale du Tchad (UST), et **Massalabaye Ténébaye**, président de la Ligue tchadienne des droits de l'Homme (LTDH).

270. Selon les informations reçues, le 13 octobre 2009, M. Barka aurait été suivi par plusieurs voitures banalisées et une moto. Le motard aurait brandi une arme en direction de M. Barka avant que ce dernier ne prenne la fuite. Les 13 et 14 octobre 2009, M. Ténébaye aurait été suivi jusqu'à son domicile.

271. Le 20 octobre 2009, le ministre tchadien de l'Intérieur et de la sécurité publique, les directeurs de la Police Nationale, de la Sécurité Publique et des Renseignements Généraux auraient reçu M. Ténébaye et lui auraient assuré qu'une enquête serait ouverte sur les faits susmentionnés. Ils auraient également assuré que des mesures seraient prises pour assurer sa sécurité ainsi que celle de M. Barka. Cependant, selon plusieurs sources, aucune enquête n'aurait été diligentée à ce jour et les dispositifs de sécurité qui avaient été mis en place par les autorités auraient été rapidement retirés.

272. Il est allégué que ces incidents seraient liés aux visites de MM. Barka et Ténébaye à Paris et à Bruxelles en février 2009 en qualité de délégués du Comité de suivi de l'appel à la paix et à la réconciliation (CSAPR). Au cours de cette visite, ils auraient informé les autorités françaises et l'Union européenne de la situation sécuritaire au Tchad, ainsi que de l'absence de mise en œuvre des recommandations de la Commission d'Enquête sur les événements survenus en République du Tchad du 28 janvier au 8 février 2008 et leurs conséquences.

273. Des craintes ont été exprimées quant au fait que ces incidents soient liés aux activités non-violentes de promotion et protection des droits de l'homme de MM. Barka et Ténébaye. Des craintes ont également été exprimées quant à leur intégrité physique et psychologique.

Observations

274. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la présente communication, ainsi qu'à celles envoyées en 2008, 2007, 2006, 2005 et 2004. Il considère les réponses à ses communications comme partie intégrante de la coopération des gouvernements avec son mandat. Il exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celles-ci, notamment en fournissant des informations précises sur les enquêtes menées afin de traduire en justice les auteurs des faits et les mesures de protection prises.

Chile

Llamamiento urgente

275. El 9 de septiembre de 2009, El Relator Especial, junto con la Relatora Especial 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, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con el hostigamiento y la intimidación contra el Sr. **Francisco Vera Millaquén**, werken (vocero) de la Comunidad Mapuche Huilliche “Pepiukelen”, los Sres. **Cristian Andrés Espinoza Guerrero, Paulo Andrés Rojas Ramírez, Pedro Alejandro Guerrero Guerrero, Alejandro Esteban Triviño Guerrero, Francisco Alejandro Mancilla Barrientos, Jaime Miguel Bustamante Ojeda, Ricardo Alfonso Casas Mayorga**, dirigentes sociales de Puerto Montt, el Sr. **Jaime Facundo Mendoza Collio**, miembro de la Comunidad Mapuche Requem Pillan, el Sr. **Juan Carlos Curinao**, lonko de la Comunidad Mapuche Huañaco Millao, y los Sres y Sras. **Marcela Curipan, Rayen Queipul Paillaleo, Evelyn Fierro, Ema Catrillanca, Daniela Vira, Rodrigo Millanao, Jorge Ñancuqueo, Víctor Montoya, Nicolás Manque, Kevin Rubilar, Carlos Vidal, Álvaro Queipul, Javier Parra y Alexis Lican**, estudiantes de la Comunidad Mapuche de Temucuicui en la IX región.

276. Según las informaciones recibidas, el 13 de agosto de 2009, agentes de la policía habrían allanado las casas de los Sres. Espinoza Guerrero, Rojas Ramírez, Guerrero Guerrero, Triviño Guerrero, Mancilla Barrientos, Bustamante Ojeda, Casas Mayorga y Espinoza Zapatel sin presentar ninguna orden de algún tribunal o fiscal.

277. Sólo en un caso el Fiscal habría dado una orden verbal para que el allanamiento se llevara a cabo. En todos los demás casos se les habría forzado firmar una declaración aceptando voluntariamente el allanamiento.

278. La policía habría confiscado computadores, dispositivos de almacenamiento masivo USB, discos compactos, DVD, teléfonos celulares, documentos y libros.

279. El 14 de mayo, el Sr. Vera Millaquén habría sido informado que la policía buscaba al Sr. Hernán Espinoza Zapatel y que después lo buscarían a él en relación con el supuesto atentado incendiario en las oficinas de SalmonChile del 4 de mayo de 2009.

280. En la noche del 14 de mayo de 2009, un hombre desconocido habría seguido al Sr. Vera Millaquén subiéndose al mismo autobús en el que él viajaba a Valdivia y desde allí a Paillaco. Cuando llegó a su destino, el Sr. Vera Millaquén se habría dado cuenta que le habrían robado su teléfono celular.

281. Asimismo, el 8 de mayo de 2009, mientras que se dirigía a Temuco para acudir a una reunión, su maletín también habría sido robado. El auxiliar del autobús le habría informado que una persona que había subido al autobús en Loncoche, aproximadamente a una hora de Temuco, se habría cambiado a distintos asientos hasta quedar cerca del Sr. Vera Millaquén, quien iba dormido.

282. Además, el Sr. Vera Millaquén habría sido informado que su cuenta de correo electrónico habría sido intervenida y se teme que su teléfono y los de sus familiares también habrían sido interceptados.

283. A principios de agosto, agentes de la policía del Retén de Pargua habrían llegado a su casa preguntando que era lo que iban a celebrar los Mapuches el 9 de agosto de 2009. Mientras uno de los agentes hablaba con uno de los hermanos del Sr. Vera Millaquén, un segundo habría realizado una llamada telefónica diciendo que el Sr. Vera Millaquén no se encontraba en casa. Cabe mencionar que el 9 de agosto es la fecha del cumpleaños de la sobrina del Sr. Vera Millaquén y la familia estaba organizando una fiesta para celebrarlo. Supuestamente, la familia solo habría hablado acerca del tema por teléfono y prácticamente en clave.

284. Se cree que todos estos actos de hostigamiento e intimidación anteriormente mencionados están relacionados con el incendio en las oficinas del SalmonChile el 4 de mayo de 2009. Dos días después del incidente, varios periódicos habrían publicado la historia sobre el incendio implicando a miembros de la Comunidad Mapuche como posibles responsables del incendio.

285. En un caso separado, el 30 de julio de 2009, un grupo de aproximadamente 80 estudiantes mapuches se habrían manifestado en el Liceo Alonso de Ercilla contra la militarización en sus comunidades.

286. Aproximadamente a las 12:30 horas de la tarde, agentes de la policía de la prefectura de Malleco habrían intervenido violentamente, deteniendo a 16 estudiantes, incluyendo a los Sres. y Sras. Curipan, Queipul Paillaleo, Fierro, Catrillanca, Vira, Millanao, Ñancuqueo, Montoya, Manque, Rubilar, Vidal, Queipul, Parra y Lican.

287. Asimismo, el 7 de julio de 2009, el Sr. Mendoza Collio habría sido asesinado por elementos de la policía chilena de Carabineros mientras participaba en una recuperación de tierras que supuestamente ancestralmente le pertenecían a su comunidad en el Fundo “San Sebastián” en la Comunidad de Ercilla. Varios otros miembros de la Comunidad Mapuche habrían sido heridos durante el incidente, entre ellos el Sr. Curinao.

288. Se expresó temor que los hostigamientos e intimidaciones contra miembros de la Comunidad Mapuche y dirigentes sociales de Puerto Montt podrían estar relacionados con las actividades que realizan en defensa de los derechos humanos.

Respuesta del Gobierno

289. En una carta fechada el 23 de octubre de 2009 el Gobierno respondió a la comunicación.

290. En relación con los allanamientos a domicilios el 13 de agosto de 2009, el Ministerio Público de Chile informó que “no existen investigaciones penales a su respecto que coincidan con los hechos mencionados ni la fecha de ocurrencia de los mismo”.

291. Igual en relación con los actos de hostigamientos e intimidaciones contra el Sr. Vera Millaquén, el Ministerio Público de Chile señaló que “no ha denunciado ningún hecho constitutivo de delito que permita al Ministerio Público investigar su eventual ocurrencia y partícipes”.

292. En relación con la detención de 16 estudiantes mapuches el Ministerio Público informé lo siguiente; con fecha 30 de julio de 2009, alrededor de las 9 horas, fueron detenidos 16 jóvenes en el Liceo Alonso de Ercilla y Zúñiga de la localidad de Ercilla, provincia de Malleco, Novena región de la Araucanía. 11 de los 16 jóvenes detenidos son menores de edad, y 14 de ellos son estudiantes. A los jóvenes se les imputó el haber ocupado ilegalmente dependencias del Liceo, obstruyendo además el tránsito de vehículos; lanzar objetos contundentes a la policía u colocar carteles alusivos al conflicto mapuche, como 'libertad a los presos políticos', 'solución a nuestros problemas' y otros, todo lo cual fue calificado por el fiscal como desórdenes públicos y daños, delitos contemplados en los artículos 289 y 487 del Código Penal, respectivamente. Los detenidos señalan no haber tenido participación en esta movilización.

293. Al día siguiente se realizó una audiencia para verificar la legalidad de la detención y formalizar la investigación contra los jóvenes. En dicha audiencia, el defensor Ricardo Cáceres Setlen, de la Defensoría Penal Mapuche, pudo constatar que los jóvenes habían sido agredidos, consistentes en hematomas y otras lesiones. Se alegó la ilegalidad de la detención por la falta de antecedentes que establecieran la efectiva participación de los jóvenes en los desórdenes, los apremios sufridos y la falta de información de sus derechos. En base a lo anterior, y aunque no accedió a invalidar la detención, el juez dispuso enviar los antecedentes de dicha detención a la fiscalía militar de Angol, para que se inicie una investigación por eventuales delitos contemplados en el Código de Justicia Militar; pidió a carabineros de Collipulli que diera cuenta si se le informó a los detenidos sobre sus derechos; y al hospital de Collipulli, que constatare las lesiones de los detenidos. Los jóvenes fueron sometidos a medidas cautelares de prohibición de participar en actividades públicas, arraigo regional y, para los adolescentes, sujeción al Programa de re-inserción social dependiente del Servicio Nacional de Menores, SENAME. No obstante, los adolescentes imputados siempre alegaron que ellos fueron meros observadores de estos acontecimientos ocurridos frente a su establecimiento educacional.

294. Se informó que con fecha 27 de agosto de 2009, el juez aprobó que el procedimiento se suspendiera a favor de 14 de los 16 jóvenes, imponiéndoles las siguientes condiciones: Prohibición de participar en actos públicos, sujeción a un programa de SENAME, tener trabajo o estudios, por un año. El 30 de septiembre se realizó un juicio en procedimiento simplificado en el que se condenó a uno de los imputados a 61 días de presidio menor en grado mínimo, concediéndole el beneficio de remisión condicional de la pena."

295. En relación con la muerte del Sr. Mendoza Collío, se informó que luego de la muerte del comunero Jaime Mendoza Collío, perteneciente a la Comunidad Requén Pillán, al interior del Fundo San Sebastián en Angol, ocurrida el 12 de agosto de 2009, se identificó como responsable del disparo, al Cabo Primero, José Miguel Jara Muñoz, perteneciente al Grupo de Operaciones Policiales Especiales (GOPE) de Santiago, quien quedó recluido por orden de la Fiscalía Militar.

296. Asimismo, se informó que, el 18 de agosto de 2009, el Cabo José Jara fue cometido a un Proceso por el Delito de Violencia Innecesaria con Resultado de Muerte y permaneció en Prisión Preventiva al interior de la Comisaría de Angol con libre plática. El Tribunal también discutió la solicitud de libertad del uniformado, que fue rechazado.

297. Según la carta, ante una nueva petición interpuesta el 8 de septiembre de 2009, el Tribunal resolvió la libertad bajo fianza del cabo José Jara.

298. Actualmente, el Cabo José Jara se encuentra en libertad y se mantiene procesado por la muerte de Mendoza Collio, a la espera de las diligencias que determine el Fiscal Militar, bajo secreto de sumario en la investigación. Por lo tanto, no se tiene conocimiento de las actividades futuras de la Justicia Militar.

299. En relación con el incendio en las oficinas de SalmonChile, se informó que el incendio fue intencional y que el 5 de mayo el Ministerio del Interior presentó una querrela contra quienes resulten responsables por el delito incendio en Instituto Tecnológico del Salmón (Intesal).

300. Hasta el momento las investigaciones que encabeza el Fiscal Sergio Coronado Rocha se ha encaminado por una parte, a las pericias técnicas que demuestran la intencionalidad del incendio encontrando en los escombros restos de una mochila que contendría el material incendiario y por otra, se están realizando las pericias en relación al correo electrónico desde donde se envió el mensaje que se atribuía la autoría del incendio.

301. En el marco de la referida investigación, el 13 de agosto de 2009, se informó lo siguiente: se efectuó entrada y registro voluntario en los domicilios de los Sres. Hernan Espinoza Zapatel, Ricardo Casa Mayorga, Jaime Bustamante Ojeda, Alejandro Triviño Guerrero, Cristian Espinoza Guerrero, Pedro Guerrero Guerrero, Francisco Mancilla Barrientos y en la casa en calle Huasco sin número, Población Vista Hermosa, Puerto Montt, realizándose con pleno respeto a las normas que regulan el procedimiento de entrada y registro en lugares cerrados, con consentimiento expreso de los encargados o propietarios de los inmuebles, lo cual consta de las respectivas actas firmadas. Asimismo, por los mismos encargados o propietarios, se hizo entrega voluntaria de una serie de dispositivos de almacenamiento de información. En el caso del Sr. Ricardo Casas Mayorga, se informó que no hizo entrega voluntaria de algunos elementos así que se solicitó y se obtuvo la correspondiente autorización de incautación del juez de garantía de turno.

302. Asimismo, se informó que fueron incautados diversos dispositivos electrónicos y computaciones para luego ser revisados como parte de la investigación.

303. Finalmente, se informó que las siguientes personas han sido formalizadas por el atentado contra SalmónChile y serán investigadas en un plazo de 4 meses para dilucidar su participación intelectual y/o material en el atentado: Hernán Espinoza Zapatel, Ricardo Casa Mayorga, Jaime Bustamante Ojeda, Alejandro Triviño Guerrero, Pedro Guerrero Guerrero, Francisco Mancilla Barrientos, Paulo Rojas Ramírez y Cristian Espinoza Guerrero.

Observaciones

304. El Relator Especial agradece la información proporcionada por el Gobierno de Chile en relación con la comunicación enviada.

China

Urgent appeal

305. On 14 January 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal concerning Mr. **Wang Debang**, a human rights activist from Beijing. According to the information received:

306. On 10 January 2009 Mr. Wang Debang was summoned by over twenty policemen to the Beijing Municipal Public Security Bureau. The police searched his home and confiscated his computer and other personal items.

307. Mr. Wang was interrogated for about six hours about his alleged involvement in drafting the forthcoming Report on the situation of human rights defenders in China (2008) for the NGO Chinese Human Rights Defenders (CHRD). He was also questioned about his involvement in Charter 08, a document signed by over 300 prominent Chinese intellectuals and human rights activists to promote political reform and democratization in China.

308. Concern was expressed that the summoning and interrogation of Mr. Wang, as well as the confiscation of his computer and other personal items may be solely related to his peaceful activities in defence of human rights. Further concern was expressed that these actions may form part of a broader pattern to harass signatories of Charter 08.

Response from the Government

309. On 27 February 2009, the Government responded to the urgent appeal. The Government indicated that Wang Debang, real name Wang Zhijing, is an ethnic Han male born on 4 October 1965 and originally from Guilin, Guangxi. On 10 January 2009 he was issued a subpoena by the Beijing public security authorities, in accordance with the law, for investigation on suspicion of having engaged in illegal activities. To date the public security authorities have taken no coercive measures in respect of him.

Urgent appeal

310. On 12 February 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal concerning Mr. **Gao Zhisheng**, a human rights lawyer. Mr. Zhisheng was the subject of several communications sent on 28 September 2007, 1 December 2006, 30 November 2006, 21 December 2005 and 25 November 2005. According to the information received:

311. Mr. Gao Zhisheng was taken away from his home in Shaanxi Province by more than 10 security agents on 4 February 2009. He had previously been taken into custody on or shortly after 19 January 2009 and held incommunicado at an unknown location. He is considered to be at high risk of torture and other ill-treatment in light of the harsh treatment he received while in detention in 2006 and 2007. His current whereabouts are unknown.

312. Mr. Gao Zhisheng had been previously detained on 22 September 2007 and held incommunicado for six weeks. During this time, he was allegedly stripped and beaten by a group of police officers in civilian clothes. He was also beaten, given electric shocks to his genitals and had cigarettes held close to his eyes for several hours, leaving him partially blind for a number of days. During his detention in 2006, he was reportedly handcuffed and forced to sit in an iron

chair or cross-legged for more than four days at a time, in addition to having bright lights shone in his eyes. In April 2007, Mr. Gao Zhisheng publicized the torture and ill-treatment he had suffered while in custody, which led to an escalation of harassment of his family.

313. Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Gao Zhisheng is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights.

314. We should also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression of the above mentioned person, in accordance with fundamental principles as set forth in article 19 of the Universal Declaration of Human Rights

Response from the Government

315. On 1 April 2009, the Government responded to the urgent appeal. The Government indicated that on 15 August 2006, Gao Zhisheng was placed in criminal detention on suspicion of inciting subversion of State power, and on 21 September of that year he was arrested by order of the procuratorial authorities. On 22 December 2006, the Beijing First Intermediate People's Court sentenced Gao, taking into account his meritorious service, to three years' imprisonment with five years' probation, and to one year's deprivation of his political rights. At present he is still in Beijing serving his term of probation.

316. China is a country governed by the rule of law. The public security authorities abide strictly by the law in their handling of cases. While Gao was in criminal detention in 2006, the public security authorities never tortured him. Since 2007, Gao has never been subjected to any coercive measures or held in any covert form of imprisonment by the Chinese Government. The Chinese public security authorities have never received any complaint from Gao or from anyone else.

Urgent appeal

317. On 18 February 2009, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding Mr. **Lobsang Lhundup**, 38 years old, born in Gemo Village, in Litang County, Ganzi, Tibetan Autonomous Prefecture, Sichuan Province, a monk of Nekhor Monastery; his brother, Mr. **Sonam Tenpa**, 29 years old; Mr. **Jampa Thokmey**, 30 years old; Mr. **Gelek Kunga**, 26 years old; Mr. **Lobsang Tenzin**, 23 years old; Mr. **Lobsang Phendey**, 37 years old; Mr. **Jampa Yonten**, 30 years old; Mr. **Sanggey**, 29 years old; Mr. **Jampa Tsering**, 28 years old; Mr. **Lobsang Wangchuk**, 30 years old; Mr. **Lobsang Tashi**, 21 years old; Mr. **Gendun Choephel**, 30 years old; Mr. **Dargye**, 37 years old; Mr. **Gedhun**, 29 years old; Mr. **Jampa**, 40 years old; Mr. **Amdo Gyaltzen**, 41 years old; and Mr. **Damdul**, head of Dekyi village, all of them residing in Litang County. According to the information received:

318. Mr. Lobsang Lhundup was arrested on 15 February 2009 for staging a peaceful solo demonstration at the main market square of Litang town for about 15-20 minutes, chanting slogan such as “Long live the Dalai Lama”, “Independence for Tibet”, “Swift return of the Dalai Lama to Tibet”, or “No Losar celebration this year” (Losar being the New Year celebrated by ethnic Tibetans). He was arrested and detained by officials of the Public Security Bureau (PSB) and People’s Armed Police (PAP) and taken to the Litang PSB Detention Centre for further interrogation.

319. In the morning of 16 February 2009, a group of twenty Tibetans from Litang County was also arrested after staging a similar peaceful protest march at Litang main market square. In addition to the sixteen individuals named above, they include two Tibetans, whose identities are not known, and Yanglo and Dolma, two Tibetan Nomad women from Sako village, who were released on the evening of the same day.

320. Mr. Sonam Tenpa, who led the peaceful protest, was carrying a portrait of the Dalai Lama adorned with a traditional Tibetan scarf, while the group chanted slogans such as “Long Live the Dalai Lama”, “Independence for Tibet”, “Swift return of the Dalai Lama to Tibet” and “No Losar celebration this year”.

321. Eyewitnesses to the scene reported that the members of the group were beaten, manhandled and forcibly loaded into military trucks by PSB and PAP forces. Some of the protesters were badly bruised and injured with blood dripping from their nose, head and arms. Mr. Sonam Tenpa and Mr. Lobsang Tenzin sustained particularly serious injuries from the beatings at the site of the demonstration.

322. Mr. Lobsang Lhundup is currently detained at Litang County PSB Detention Centre, whereas the other detainees are said to be held at Tsagha PSB Detention Centre. However, when the family members of Mr. Gelek Kunga arrived for a visit they could not find him at this detention centre.

323. Concerns were expressed for the physical and mental integrity of the abovementioned individuals, in particular of Mr. Gelek Kunga whose whereabouts are currently unknown. Further concern were expressed that their arrest and detention might be solely based on their reportedly peaceful exercise of their right to freedom of assembly, opinion, and expression of political beliefs.

Response from the Government

324. At the time this report was finalized, the reply of the Government of 17 April 2009 had not been translated.

Urgent appeal

325. On 16 March 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture, sent an urgent appeal to the Government regarding Mr. **Jigme Gyatso**.

326. It was noted that Mr. Gyatso was the subject of Opinion N° 8/2000 adopted by the Working Group on Arbitrary Detention on 17 May 2000, and an urgent appeal sent by the

Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on torture on 4 January 2007. The Special Rapporteur on torture also visited him on 27 November 2005 at Qushui Prison (E/CN.4/2006/6/Add.6, Appendix 2, para. 21).

327. According to new allegations received, Mr. Jigme Gyatso was transferred to the hospital at Drapchi Prison, although the exact date was not known. His family was informed of his hospitalization by prison officials during their monthly meeting at Qushui Prison in late February. Information was also received that Mr. Gyatso's health has deteriorated, and that he could no longer stand up.

328. In connection with Mr. Gyatso's sudden transfer, concern was expressed for his deteriorating health. The mandate-holders also reminded the Government that following a personal meeting between the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Mr. Gyatso, he recommended that Mr. Gyatso be released, since he had been convicted of a political crime, possibly on the basis of information extracted by torture.

Response from the Government

329. At the time this report was finalized, the reply of the Government of 15 May 2009 had not been translated.

Urgent appeal

330. On 31 March 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding **Wei Liangyue**, director of the Harbin-based Jiaodian Law Firm and a human rights lawyer, and his wife, **Du Yongjing**. According to the information received, on 28 February 2009, Wei Liangyue and his wife Du Yongjing were arrested by public security officers in the city of Harbin, Heilongjiang Province, while attending a Falun Gong meeting. Subsequently, Wei Liangyue and Du Yongjing were reportedly held in Nangang District Detention Center and in the Harbin City Women's No. 2 Detention Center, respectively.

331. While Wei Liangyue was detained on suspicion of "gathering a crowd to disturb social order" and reportedly received one and a half years of re-education through labour, his wife is suspected of "using heretical organization to obstruct the implementation of the law" and might face criminal prosecution under article 300 of the Criminal Law.

332. Both were reportedly warned by the authorities not to discuss the case publicly and not to hire a lawyer to represent them.

333. During over 20 years of his law practice, Wei Liangyue has provided legal aid to local people facing human rights violations, including Falun Gong practitioners who have been detained for their beliefs.

334. Concern was expressed for the physical and psychological integrity of Wei Liangyue and Du Yongjing while in detention.

Response from the Government

335. At the time this report was finalized, the reply of the Government of 22 May 2009 had not been translated.

Letter of allegations

336. On 9 April 2009, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on freedom of religion or belief, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent a letter of allegations concerning the death of Mr. **Phuntsok Rabgay**, a 27-year-old monk, in Drango County, Garzê Tibetan Autonomous Prefecture, Sichuan Province.

337. According to the information received, on 25 March 2009, Phuntsok Rabgay was pasting leaflets containing allegations that monks had been tortured and imprisoned by the authorities and an appeal to the local population to forego crop cultivation and harvest as a gesture of mourning and disobedience. He was detected by Drango County Public Security Bureau (PSB) personnel and tried to elude arrest by fleeing on a motorcycle. The PSB personnel, however, managed to pursue and catch him. Upon arrest, they beat him with batons. He died shortly thereafter. The PSB officers reportedly dropped his body from a hill in order to create the appearance of a case of suicide.

Response from the Government

338. At the time this report was finalized, the reply of the Government of 2 July 2009 had not been translated.

Urgent appeal

339. On 9 July 2009, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal to the Government in relation to the large number of deaths, casualties and mass arrests resulting from violent clashes in Xinjiang Uighur Autonomous Region.

340. According to information received, on 5 July 2009, at least 156 people were killed and over 800 injured following violent clashes during demonstrations in Urumqi, the capital of the Xinjiang Uighur. Police had detained some 1,434 individuals in connection with the protests.

341. The exact circumstances surrounding the aforementioned events remained unclear, but the alleged Government inaction following the killing of two Uighurs by ethnic Han Chinese at a factory in Shaoguan, Guangdong province at the end of June 2009 may have sparked the protests.

342. While initial internet footage of the demonstration showed protesters marching peacefully through Urumqi, violent clashes later ensued between Uighurs and ethnic Han Chinese resulting in mass bloodshed. Some reports claimed that excessive police force may have contributed to

the death of a number of protesters. During the protests, mobile phone services were reportedly blocked and internet connections minimized, with websites and online discussion forums ordered not to publish any material related to the protests.

343. Concern was expressed that reports of media censorship during the aforementioned protests may have been an attempt to prevent independent reporting on the circumstances surrounding the demonstrations.

Response from the Government

344. At the time this report was finalized, the reply of the Government of 21 August 2009 had not been translated.

Urgent appeal

345. On 30 July 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding the detention of Mr. **Huang Qi**. Mr. Huang Qi is the head of the human rights organization Tianwang Human Rights Service and founder of the human rights website 64tianwang. He has also advocated on behalf of parents whose children were killed when their school buildings collapsed in the Sichuan earthquake in May 2008.

346. Mr. Huang Qi was the subject of urgent appeals sent by the then Special Representative on the situation of human rights defenders, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the question of torture on 8 December 2003, and by the Special Rapporteur on the situation of human rights defenders on 18 June 2008. We would like to thank your Excellency's Government for its letter of response dated 7 August 2008. According to new information received:

347. In spite of deteriorating health conditions, Huang Qi has allegedly been denied medical treatment while in detention. Huang Qi suffers from headaches and insomnia, has an irregular heart beat and has reportedly recently discovered four lumps on his chest and abdomen. He has not been permitted access to any medical care.

348. Following a meeting with Huang Qi on 26 May 2009, during which the human rights defender described his health concerns, his lawyer, Mr. Mo Shaping, submitted an application for bail. However, authorities have not yet responded to this request. Huang Qi's family has also been denied visitation rights since he was first arrested and detained on 10 June 2008.

349. On 18 July 2008, Huang Qi was formally charged with "illegal possession of state secrets" having been previously detained for over a month without charge. His detention is believed to be connected to articles posted on his website, 64 tianwang, regarding allegations made that the buildings which collapsed in the Sichuan earthquake in May 2008, and which resulted in the deaths of many children, were structurally faulty.

350. Concern was expressed that the continued detention of Huang Qi, and the refusal to provide him with the necessary medical attention, are related to his work in defence of human rights.

Response from the Government

351. At the time this report was finalized, the reply of the Government of 17 December 2009 had not been translated.

Letter of allegations

352. On 5 August 2009, the Special Rapporteur, together with the Special Rapporteur on freedom of religion or belief, sent a letter of allegations concerning the **draft legislation on children's freedom of religion being considered in the Xinjiang Uighur Autonomous Region**.

353. According to information received, the regional Government of the Xinjiang Uighur Autonomous Region was reportedly actively considering a draft legislation that would strengthen the existing legal restrictions on children's freedom of religion or belief and parent's freedom to impart religious education to their children. The draft legislation would build on the 1993 Implementing Measures for the Law on the Protection of Minors currently in force in the Xinjiang Uighur Autonomous Region which provides that "parents or other guardians may not permit minors to be engaged in religious activities".

354. The draft legislation under consideration would allegedly include provisions indicating that "no organisation or individual may lure or force minors to participate in religious activities or use religion to obstruct minors' compulsory education". Where minors are "lured" or "forced" into such activities, the draft legislation provides that children "can ask for protection from schools, neighbourhood committees, village committees, offices for the protection of minors or public security organs. Such organisations or work units receiving requests for help must take measures in a timely manner and not refuse or shift responsibility".

355. Concern was expressed that the adoption of the draft legislation was specifically aimed at unduly restricting the freedom of religion or belief of the members of the Uighur Muslim community in the Xinjiang Uighur Autonomous Region. Further concern was expressed that if adopted, the draft legislation could foster the existing tensions which have led to the violent clashes that erupted during Han and Uighur demonstrations in Urumqi on 5 July 2009.

Response from the Government

356. At the time this report was finalized, the reply of the Government of 26 October 2009 had not been translated.

Urgent appeal

357. On 7 August 2009, the Special Rapporteur, together with the Vice-Chairperson Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal

regarding Mr **Xu Zhiyong** and Mr **Zhuang Lu**. Mr Xu Zhiyong is the founder of the legal aid and research center Open Constitution Initiative (OCI, also known as Gongmeng in Chinese), law professor at Beijing University of Post and Telecommunications and elected representative of the People's Congress for Haidian District. Mr Zhuang Lu is a staff member of the OCI. The Open Constitution Initiative addressed issues such as the death penalty, the existence of unofficial "black jails" and represented parents of the victims of a recent tainted milk scandal.

358. Mr. Xu was the subject of an urgent appeal sent by the then Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the then Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture and the then Special Representative of the Secretary-General on the situation of human rights defenders on 7 April 2006. According to information received:

359. On 29 July 2009, at approximately 5.00 am, Mr Xu Zhiyong was taken from his home in Beijing by several policemen. Mr Zhuang Lu was also taken from his home at around the same time. Both remain in police detention at an unknown location.

360. On 30 July 2009, the State Administration of Taxation held a hearing about its decision of 14 July 2009 in which it imposed a fine of 1.42 million RMB on OCI for tax evasion. The hearing was reportedly held without the presence of Mr Xu Zhiyong and was closed to the public. The lawyers of Mr Xu Zhiyong and Mr Zhuang Lu attended the hearing.

361. On 17 July 2009, three days after the State Administration of Taxation fined the OCI for tax evasion; the Beijing Municipal Bureau of Civil Affairs declared the OCI illegal and raided its offices.

362. Concern was expressed that the arrest and detention at an unknown location of Mr Xu Zhiyong and Mr Zhuang Lu may be related to their activities in defence of human rights. Further concern was expressed given that the arrest and detention of the above-mentioned persons may form part of a broader pattern of restricting the activities of NGOs and lawyers working on sensitive human rights issues.

Response from the Government

363. At the time this report was finalized, the reply of the Government of 24 December 2009 had not been translated.

Letter of allegations

364. On 20 August 2009, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations in relation to the arrest and detention of four writers from Tibet Autonomous Region (TAR), Mr. **Kang Gongque**, Mr. **Gang Ni**, Mr. **Zhuori Cicheng**, and Mr. **Tashi Rabten**. According to information received:

365. On 20 March 2008, Mr. Kang Gongque, editor of the newspaper "Gangsai Meiduo" and founder of the Barkham University newspaper, was arrested in Luomo Temple in Qinghai, after condemning the measures taken against the riots which took place that month. He is now serving a two-year sentence in a prison in Chengdu, Sichuan province.

366. On 17 March 2009, Mr. Gang Ni, a monk who wrote articles entitled “Who are the real separatists?” and “Tibetans, we must recognise the truth about AIDS”, was arrested and has been in prison since then.

367. On 2 April 2009, Mr. Zhuori Cicheng, founder and editor of a literary magazine “Life of Snow”, was jailed for writing articles that allegedly “incited separatism”.

368. On 27 July 2009, Mr. Tashi Rabten, a journalist known by the pen-name “Therang”, was arrested after self-publishing “The Book of Blood”, a collection of 32 articles about the March 2008 riots in TAR. Reports claim that he is being held in a prison in Ruoergai, Sichuan province.

369. The imprisonment of the four writers only became known after it was reported on an online blog on 3 August 2009. The blog, as well as other local blogs which reported on this issue, have been blocked since then.

370. Concern was expressed that the arrest and detention of these four writers, as well as the blocking of the blogs, may represent a direct attempt to prevent independent reporting in the People’s Republic of China, thus stifling freedom of expression in the country. Further concern was expressed that some of the above-mentioned persons have been held without trial in unknown locations.

Response from the Government

371. At the time this report was finalized, the reply of the Government of 26 October 2009 had not been translated.

Urgent appeal

372. On 28 August 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on freedom of religion and belief, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding Mr. **Wang Yonghang**, a former lawyer from Dalian City, Liaoning Province.

373. According to information received, on 4 July 2009, Mr. Wang Yonghang was arrested by two dozen Dalian police officers for “using a cult to damage the social and legal system”. He was severely beaten during his arrest, resulting in the breaking of his right ankle. He did not receive adequate medical treatment until 11 August, when he had surgery as a result of a serious infection in his ankle. The police did not notify Mr. Wang’s family about the operation. However, on the same day, Mr. Wang’s family was provided with his arrest warrant, dated 10 August.

374. At the time of the submission of the urgent appeal, Mr. Wang Yonghang was being detained at Dalian City Detention Center, where he had allegedly been subjected to more beatings. His family and lawyer had not been able to see him, because his case allegedly involves “state secrets”. His family had repeatedly complained to the relevant authorities about Mr. Wang Yonghang’s ill-treatment, but had not received any response. Mr. Wang Yonghang’s license to practice law was not renewed following his annual review period on 31 May 2008.

Mr. Wang Yonghang had also published several open letters online in which he advocated for religious freedom and explained his views on the treatment of Falun Gong practitioners.

375. Concern was expressed that Mr. Wang Yonghang's detention may be related to his work as a defense lawyer for Falun Gong practitioners. In light of allegations of denial of adequate medical treatment and of beatings, further concern was expressed for Mr. Wang's physical and psychological integrity.

Response from the Government

376. At the time this report was finalized, the reply of the Government of 26 October 2009 had not been translated.

Letter of allegations

377. On 2 September 2009, the Special Rapporteur, together with the Special Rapporteur on freedom of religion or belief and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent a letter of allegations to the Government concerning the sentencing of Mr. **Palden Gyatso**, Mr. **Tsultrim**, Mr. **Sangpo**, Mr. **Jamyang Khedrub**, Mr. **Gendun**, and Mr. **Shrab Sangpo**, six monks from Ragya Monastery in Qinghai Province, Tibet Autonomous Region, together with Mr. **Hu-lo** and Mr. **Yang-kyab** from Gya-sa village.

378. According to information received, on 10 March 2009, Mr. Tashi Sangpo, a monk from Ragya Monastery in Magin County, Qinghai Province, was arrested after the authorities allegedly found political leaflets and the banned Tibetan flag in his room. He was reportedly subjected to beatings, inhumane treatment and long interrogations during his detention. On 21 March 2009, Mr. Tashi Sangpo allegedly escaped from the detention centre after he asked to use the bathroom, and committed suicide by jumping into the Yellow River.

379. On the same day, several thousand monks and local Tibetans in and around Ragya Monastery gathered to demand an answer for Mr. Tashi Sangpo's death. In response, the government authorities allegedly arrested monks from the Ragya Monastery as well as local Tibetans.

380. On 13 August 2009, the Machen County People's Court in Golog, Qinghai Province, tried and sentenced the following persons to varying prison terms:

1. Mr. Palden Gyatso, monk and disciplinarian at Ragya Monastery, sentenced to seven years of imprisonment.
2. Mr. Tsultrim, monk and former disciplinarian at Ragya Monastery, sentenced to four years of imprisonment.
3. Mr. Sangpo, monk and former treasurer at Ragya Monastery, sentenced to three years of imprisonment.
4. Mr. Jamyang Khedrub, monk and secretary of the Board of Directors at Ragya Monastery, sentenced to two years of imprisonment.

5. Mr. Gendun, monk, sentenced to one year of imprisonment.
6. Mr. Sherab Sangpo, monk, sentenced to two years of imprisonment.
7. Mr. Hu-lo from Gya-sa village, sentenced to one year of imprisonment.
8. Mr. Yang-kyab from Gya-sa village, sentenced to six months of imprisonment.

381. The above-mentioned persons were allegedly found guilty of “inciting protests and demonstrations against the Chinese government” for taking part in demonstrations on 21 March 2009.

382. Concern was expressed that the sentencing of the above-mentioned persons to imprisonment may represent a direct attempt to stifle freedom of expression, freedom of assembly and freedom of religion in the Tibet Autonomous Region.

383. Further concern was expressed regarding the physical and psychological integrity of monks in the region, in light of the reported rise in the number of suicides committed by monks. Reports claimed that psychological trauma have been inflicted on the monastic community due to the imposition of “patriotic education”, requiring them to denounce the Dalai Lama, which had reportedly intensified in the aftermath of region-wide protests in the Tibet Autonomous Region beginning in March 2008. Reports also claimed that 15 monks or nuns have committed suicide in addition to Mr. Tashi Sangpo, and that three monks have attempted to commit suicide since March 2008, including the following persons:

- Mr. Namdrok Khakyab, visiting scholar at Samye Monastery from Dorjee Drak Monastery, committed suicide on 19 March 2008.
- Mr. Thokmey, also known as Tsanga Thokmey, monk at Ramoche Temple in Lhasa, committed suicide on 22 March 2008.
- Mr. Lobsang Jinpal, monk at Ngaba Kirti Monastery in Ngaba County, Sichuan Province, committed suicide on 27 March 2008.
- Mr. Legtsok, 75-year old monk at Ngaba Gomang Monastery in Ngaba County, Sichuan Province, committed suicide on 30 March 2008.
- An unnamed nun in her thirties from Cholung nunnery committed suicide on 12 April 2008.
- Ms. Lobsang Tsomol, nun at Chokhor Nunnery in Sibook Township, committed suicide on 12 April 2008.
- An unnamed nun from Choekhor Nunnery in Sibook Township, committed suicide on 12 April 2008.
- Three unnamed monks from Dogu Monastery committed suicide in April 2008.

- Mr. Thoesam, 29-year old monk at Ngaba Gomang Monastery in Ngaba County, Sichuan Province, committed suicide on 16 April 2008.
- Mr. Tusong, 19-year old monk at Kirti Monastery committed suicide on 16 April 2008.
- Mr. Trangma, monk at Drapa Yangden Monastery in Minyang Township, Nyagchuka County, Sichuan Province, committed suicide on 18 June 2008.
- Mr. Lobsang Tsultrim, monk at Kirti Dhongri Monastery in Mehu-ru-ma Village, Ngaba Country, Sichuan Province, committed suicide on 3 July 2008.
- Mr. Shedup, monk at a monastery in Tongren Country, Qinghai Province, committed suicide on 2 April 2009.
- Mr. Kelsang and Mr. Damchoe, monks from Drepung Monastery, both originally from Kirti Monastery in Sichuan Province, attempted to commit suicide in April 2008 by stabbing themselves in the chest, hands and wrists.
- Mr. Tapey, monk at Kirti Jopa Monastery in Ngaba Country, Sichuan Province, attempted to commit suicide by self-immolation on 27 February 2009 as protest against the ban on Monlam religious festival. Reports claim that when Tapey was on fire, three gun shots were fired at him by the Chinese police.

Response from the Government

384. At the time this report was finalized, the reply of the Government of 26 October 2009 had not been translated.

Urgent appeal

385. On 18 September 2009, the Special Rapporteur, together with the Special Rapporteur on freedom of religion and belief, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding Mr. **Li Feng** and Mr. **Yu Ming**.

386. According to information received, on 4 October 2002, Mr. Li Feng was sentenced to 15 years in prison at Prison No. 4 in Shijiazhuang City, due to his involvement in broadcasting a television program about Falun Gong. Mr. Li was allegedly tortured in prison, which resulted in him suffering from seizures, high blood pressure, breathlessness, bowel and urinary disorders. He also lost consciousness several times. In January 2006, he was kept in the hospital for two days after he lost consciousness for 12 hours. His family was not allowed to visit him.

387. At the time of the submission of the urgent appeal, Mr. Li was in critical condition. He was suffering from lower limb edema, dizziness and needed support to talk. He was also suffering from constant vomiting.

388. According to additional information, on 3 March 2006, Mr. Yu Ming was sentenced to two and a half years of forced labor. He was detained at several centers and transferred to the Tuanhe Forced Labor Camp on 1 September.

389. Mr. Yu refused to renounce Falun Gong and held a hunger strike to protest his detention. As a result, he was tortured, force-fed and tied to a chair with ropes around his neck, chest, waist, hands and legs. A dozen inmates allegedly took turns torturing him. He remained tied to the chair from mid-September to the end of 2006. He was untied after suffering cardiac arrest. He was later detained in a solitary cell and tied to the bed.

390. On 21 May 2007, Mr. Yu was transferred to the Masanjia Forced Labor Camp in Shenyang City, where he was taken to the camp hospital due to his overall weakness and stiff limbs. He was later transferred to the Luotaishanzhuang Brainwashing Center in Fushun City.

391. On 2 September 2008, Mr. Yu's term was extended for another year. He was sent back to the Masanjia Forced Labor Camp in October, and has been held in solitary confinement since then. At the camp, Mr. Yu was forced to sign a suicide letter, before he was beaten, including on his head with a steel baton, hung and shocked with electric batons. As a result, he bled severely and lost consciousness for more than a week. Repeated requests by his family to visit him have been denied.

392. As a result of the alleged beatings suffered by both Mr. Li and Mr. Yu in detention, concern was expressed for their physical and psychological integrity.

Response from the Government

393. In a letter dated 12 February 2010, the Government responded that it has looked into the matter carefully and wishes to make the following reply:

1. Li Feng, male, born 10 October 1963, Han nationality, junior middle-school educational level, peasant from Quti Village, Qizhou Town, Anguo City, Baoding Municipality, Hebei Province. Sentenced on 12 October 2003 by the Baoding Municipal Intermediate People's Court in Hebei Province to a term of 15 years' imprisonment (4 October 2002 to 3 October 2017) for having committed the crime of employing a cult to organize the sabotage of law enforcement.

On 15 October 2003, Li was sent to Baoding prison to serve his sentence, and was transferred on 22 October to a prison on the northern outskirts of Shijiazhuang. Because Li suffered from hypertension and coronary heart disease, the prison authorities were seriously concerned regarding his continuing poor health, and had him promptly hospitalized for treatment (medical records attached). The major incidents are as follows:

(a) Hospitalization: Li Feng was hospitalized in the prison infirmary for four days from 12 to 16 January 2006 and released after his hypertension and coronary heart disease conditions improved; he was again hospitalized in the prison infirmary for 46 days from 3 February to 13 March 2008 and again released after his hypertension and coronary heart disease condition improved. Li has again been hospitalized for treatment in the prison infirmary since 23 September 2009, with a preliminary diagnosis of hypertension, gastritis and reflux oesophagitis, and is being treated with intravenous fluids and medications.

(b) Outpatient treatments: When Li suddenly fainted in January 2005, the prison promptly arranged to have him treated at the provincial people's hospital; because he was frequently vomiting, the prison arranged outpatient treatment for him on 10 November and 19 December 2008, during which his gastritis and reflux oesophagitis were revealed by a CT scan.

(c) On 3 March 2009, Li was admitted to the prison infirmary for dizziness, shortness of breath and coughing; he was diagnosed with hypertension, myocardial ischemia and an upper-respiratory infection, and was treated with oral medications.

(d) On 6 May 2009, he was admitted to the prison infirmary for intermittent pain in the left thorax. He was diagnosed with an obsolescent myocardial infarction and treated with oral medications.

(e) On 16 September 2009, he was admitted to the prison infirmary for recurrent chest constriction and shortness of breath; the diagnosis was hypertension and he was treated with oral medication.

After his incarceration, Li has been visited by family members 30 times in the period from 29 October 2004 to date. From 2006 to the present, there have been six or seven visits per year. Currently, Li Feng's speech and thought processes are clear, he walks normally, and his health condition has stabilized. The assertions that Li Feng has been tortured and denied visits from family members are contrary to the facts.

2. Yu Ming, male, aged 37, Han nationality, senior middle-school educational level, worker in the YinFu Company of Shenhe District, Shenyang.

(a) On 31 March 2006, Yu was approved for a two-year, six-month term of re-education through labour by the Beijing Municipal Re-education Through Labour Administrative Committee. On 26 June 2006, Yu applied to the Beijing Municipal People's Government for an administrative review of that decision; the Beijing Municipal People's Government accepted the case for investigation, and upheld the original decision with regard to the applicant's re-education through labour. Because his domicile of origin was Hebei Province, Yu was transferred into the re-education through labour camp at Masanjia in Hebei Province on 21 May 2007. Yu had engaged in a hunger strike for a time at the Tuanhe labour camp in Beijing, and continued to refuse to eat after being transferred to the Masanjia labour camp. On 28 May 2007, he was sent to the hospital at the re-education through labour centre in Liaoning Province for treatment; after a full physical examination, he was diagnosed with malnutrition, level-III dehydration and acute coronary syndrome. The hospital provided him with enhanced nutrition, fluid replacement and treatment of his symptoms. In 2008, having fully recovered and been released from the hospital, Yu was returned to the Masanjia camp after a hospital stay of a year and three months.

On numerous occasions while in the hospital, Yu clandestinely contacted Wang Yu (a drug addict who had also been sentenced to re-education through labour and who had also been treated in the hospital) and others, and, through a recently admitted fellow-cultist, provided Wang Yu with three saw blades after Wang had been released from the hospital. On 11 August 2008, Wang and Zui Dejun (sentenced to re-education through labour for employing cults, secret societies and superstitious activities to endanger society) escaped after sawing through the steel

bars on a labour camp dormitory window. Yu also contacted his wife Ma Li, who provided Wang and Zui with a hiding-place. In accordance with the provisions of article 24, paragraph 1 (1) (the re-education through labour terms of persons who escape or organize, incite or assist others to escape are to be extended by three months or more) and paragraph 2 (5) (the re-education through labour sentences of persons who conceal cash, weapons, ropes and other prohibited articles, and who refuse to surrender them, are to be extended by two to three months) of the Detailed Rules for Implementation of the Three Types of Administrative Model and of the Review and Reward System for Persons Undergoing Re-education Through Labour in Liaoning Province, their re-education through labour terms were extended by one year. Yu was released from re-education through labour on 2 September 2009.

(b) Relevant information

With regard to the allegation that Yu was sent to a brainwashing centre at Luotaishanzhuang in Fushun City, investigation indicates that apart from a period of treatment in the Shenyang Masanjia labour camp infirmary for the adverse health effects of his hunger strike, Yu remained in that camp from the time he was transferred there from the Beijing Tuanhe labour camp on 21 May 2007 until his release from re-education through labour on 2 September 2009; during that time he was mainly receiving training on [compliance with] the legal system, and there is no evidence that he was ever sent to a brainwashing centre at Luotaishanzhuang in Fushun City.

With regard to the issue of his family members allegedly being refused permission to visit him, investigation indicates that from May 2007 to his release from hospital and return to the labour camp in August 2008, he received visits from members of his family as normal; such visits were subsequently terminated, however, because members of his family had facilitated his escape.

With regard to the issue of an alleged “suicide note”, the labour camp had arranged for more than a year of hospitalization and treatment for the effects of his refusal of food and water as well as for his acute coronary syndrome, and he was not returned to the camp until he had recovered. Yu wrote a statement of repentance on 1 October 2008. The allegation that he had been forced to write a “suicide note” while in the labour camp has no basis in fact.

With regard to the issue of the alleged solitary confinement, investigation indicates that for structural reasons, even now there are no solitary-confinement facilities at the Masanjia labour camp, so the accusation that Yu was held in solitary confinement has no basis in fact. There is also no evidence of his ever having been subjected to corporal punishment or maltreatment.

394. At the time this report was finalized, the second reply of the Government of 3 March 2010 had not been translated.

Urgent appeal

395. On 12 October 2009, the Special Rapporteur, together with the Chairperson Rapporteur of the Working Group on Arbitrary Detention, the Chairperson-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on

torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal concerning Mrs. **Liang Liwan**, a petitioner from Hangzhou, Zhejiang Province. According to the information received:

396. Mrs. Liang Liwan has been active as a petitioner in relation to forced evictions and demolition. It was reported that, on 22 September 2009, three men and one woman forced their way into her temporary home and attempted to force her to sign an agreement for the demolition of her home, which she refused.

397. The next day, Mrs. Liang Liwan was arrested and detained in police custody in Beijing by officers of the security police and other Government officials based in the city of Hangzhou. On 27 September, she was taken to Hangzhou and detained at two different locations before being transferred to an undisclosed location on 3 October. Her family currently has no information concerning her whereabouts. It is reported that members of the Hangzhou police informed her husband on 23 September only that “we have picked up your wife.”

398. In December 2008, Mrs. Liang Liwan sent to Yves Cabannes, convener of the United Nations Advisory Group on Forced Evictions, information about the impending demolition of her home by the local government. Later that month, her husband sustained serious injuries from beatings by unidentified individuals.

399. In mid-August 2009, at a conference at the School of Public Management of Zhejiang University, Mrs. Liang Liwan, using her own case as an example, spoke about social problems faced by ordinary Chinese citizens. Mr. Cabannes attended the conference, which was organized by the Friedrich-Ebert-Stiftung, a German foundation, the Centre Marc Bloch, a German social sciences research institution, and Zhejiang University. After the conference, Mrs. Liang Liwan invited Mr. Cabannes and others to see the site of her home, which is being requisitioned by the Chinese Government for expansion of the city’s East Railway Station. During the tour, the police took Mr. Cabannes and others to the local police substation for questioning. Mrs. Liang Liwan escaped and returned to the outskirts of Beijing to her temporary home, which she was renting while petitioning the Government.

400. In view of her reported detention at an undisclosed location, serious concerns were expressed as regards Ms. Liang Liwan’s physical and mental integrity. Further concern was expressed that the arrest and detention of Ms. Liang Liwan might be related to her reportedly peaceful exercise of her right to freedom of opinion and expression in defence of human rights.

Response from the Government

401. At the time this report was finalized, the reply of the Government of 12 February 2010 had not been translated.

Urgent appeal

402. On 19 October 2009, the Special Rapporteur, together with the Chairperson Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding

Mr. **Guo Quan**, former Nanjing Normal University associate professor and former member of the China Democratic League, one of the eight State-approved political parties. According to the information received:

403. On 16 October 2009, Guo Quan was sentenced to ten years of imprisonment on charges of “subversion of state power” by the Suqian Intermediate People’s Court in Jiangsu Province.

404. Between 2007 and 2008, Guo Quan published a large number of articles, including open letters on the Internet addressed to the President of the People’s Republic of China, His Excellency Hu Jintao, and to Mr. Wu Bangguo, Chairman of the Standing Committee of the National People’s Congress. The letters addressed social problems in the People’s Republic of China such as workers who had been laid off, demobilized military cadres, and peasants who had lost their land. Guo Quan advocated a multi-party, competitively-elected democratic system and nationalization of the military. He also founded the New Democracy Party of China. In late 2007, he was laid off by the Nanjing Normal University from his position as associate professor. Later he was summoned by the police, his house was searched and he was expelled from the China Democratic League.

405. In November 2008, Guo Quan was detained by the Nanjing Public Security Bureau in the Gulou District on suspicion of “subversion of state power”. A case was filed on 20 June 2009 with the Suqian Intermediate People’s Court, and Guo Quan’s trial took place on 7 August 2009. In issuing a decision more than four months after it had accepted the case, the court significantly exceeded the one-and-a-half month legal time limit stipulated in article 168 of the Criminal Procedure Code for a court to conclude a case.

406. Concerns were expressed that the criminal sentencing of Mr. Guo Quan might solely be related to his reportedly peaceful activities petitioning your Excellency’s Government, and might represent an attempt to stifle the right to freedom of opinion and expression in the country.

Response from the Government

407. At the time this report was finalized, the reply of the Government of 18 January 2010 had not been translated.

Urgent appeal

408. On 16 December 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government concerning Mr. **Noor-Ul-Islam Sherbaz**.

409. According to the information received, Mr. Noor-Ul-Islam Sherbaz, aged 17, was arrested by the police on 27 July 2009 in Urumqi, for his alleged participation in the demonstrations in Xinjiang Uighur Autonomous Region on 5 July. Since his arrest, Mr. Noor-Ul-Islam Sherbaz had been held in incommunicado detention in Shisen prison. No one had been able to visit him and it was believed that he was forced to stay in his cell 24 hours a day.

410. In light of Mr. Noor-Ul-Islam Sherbaz’ prolonged incommunicado detention, concern was expressed for his physical and psychological integrity.

Response from the Government

411. At the time this report was finalized, the reply of the Government of 21 January 2010 had not been translated.

Letter of allegations

412. On 31 December 2009, the Special Rapporteur, together with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations concerning the **transmission of HIV through contaminated blood transfusions**, and the situation of **Ms Zhao Fengxia and Ms Cao Lanying, two women living with HIV who have reportedly been detained for their HIV-related advocacy activities**.

413. According to the information received, Ms Zhao Fengxia and Ms Cao Lanying, both residents of Ningling City, Shangqiu District in Henan Province, were reportedly infected with HIV by contaminated blood transfusions in Ningling City Maternal and Child Health Hospital. Ms. Li Xige, an AIDS advocate from Ningling City, Shangqiu District in Henan Province, was reportedly also infected with HIV by contaminated blood at the same hospital during delivery by a Cesarean section. Ms Zhao Fengxia is a 34-year-old Han Chinese farmer residing in Huangzhuang Village of Huangpu township, Ningling City, Shangqiu District of Henan Province in China. Ms Cao Lanying is a 39-year-old Han Chinese farmer residing in Caozhuang Village of Huangpu township, Ningling City, Shangqiu District of Henan Province in China.

414. On 29 July, Ms Zhao and Ms Cao, together with a group of seven people, traveled to Beijing for the sixth time to submit a petition demanding that the national government compel the local government of Ningling City to recognize that people have been infected with HIV by blood transfusions, and to request that the local government take measures to address economic difficulties faced by families affected by HIV and AIDS. The protesters also demanded that the state investigate responsibility for the contaminated blood transfusions and compensate affected persons according to the law.

415. Upon their return to Henan on 11 August 2009, Ms Zhao and Ms Cao were reportedly arrested by the Ningling City Public Security Bureau with a warrant approved by the Procuratorate on charges of extortion. They are currently in custody at the Ningling City Detention Center. According to the information received, Ms Cao's husband has been unable to visit his wife and confirm that she needs medical treatment.

416. It is further reported that the police has frequently responded to peaceful protests with arrest and sometimes with charges of extortion. It is alleged that authorities have repeatedly attempted to silence those demanding redress for the HIV transmission cases by blood transfusion, by allegedly shutting down independent AIDS groups, threatening and beating journalists and AIDS activists. Reportedly, AIDS advocates have written to the Ministry of Justice in the case of Ms Zhao and Ms Cao, but have received no reply.

Response from the Government

417. At the time this report was finalized, the reply of the Government of 9 April 2010 had not been translated.

Letter of allegations

418. On 7 January 2010, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations concerning the situation of **Mr. Liu Xiaobo**. Mr. Liu is a well-known Chinese writer, intellectual and human rights activist. Mr. Liu was the subject of two previous urgent appeals sent to the Government of the People's Republic of China. The most recent urgent appeal was sent on 24 December 2008, and concerned his arrest and detention on suspicion of "inciting subversion of State power" on 8 December 2008, one day before the release of Charter 08, a public appeal calling for reforms to promote democracy and human rights in the People's Republic of China.

419. According to the information received, on 25 December 2009, Mr. Liu Xiaobo was convicted of "inciting subversion of State power" by the Beijing No. 1 Municipal Court and sentenced to 11 years in prison, with two years' deprivation of political rights, for his involvement in drafting and organizing the signing of Charter 08. Allegedly, six other articles written by Mr. Liu Xiaobo between October 2005 and July 2007, which were critical of the Chinese Government, were also used as evidence to convict him.

420. It is alleged that Mr. Liu's defence lawyers were notified about the trial date only three days in advance and that, during the trial held on 23 December 2009, which lasted less than three hours, they were given less than 20 minutes to present their arguments. Similarly, Mr. Liu was interrupted and not allowed to finish his remarks. It is also alleged that the trial was mostly closed to the public as only his brother and his brother in law could be present. His wife was denied access to the Court and supporters, reporters and foreign diplomats were barred from observing the trial.

421. Furthermore, Mr. Liu had been reportedly imprisoned and held under house arrest for his writings and activism on several occasions, including around 18 months of prison in 1989, for participating in a student democracy movement, and a three-year of re-education through labour sentence in 1995 for criticizing the Government.

422. Concern was expressed that the conviction and sentence to 11 years prison of Mr. Liu might be related to his non-violent exercise of his right to freedom of expression.

Response from the Government

423. At the time this report was finalized, the reply of the Government of 9 April 2010 had not been translated.

Urgent appeal

424. On 15 January 2010, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding the situation of Mr. **Zhao Shiyong**, also known as Zhao Dagong. Mr. Zhao Shiyong is a Chinese writer calling for democratic reform in China.

425. According to the information received, on 11 January 2010, Mr. Zhao Shiyong, his wife and adult son were allegedly arrested by a dozen of police officers at their home in Shenzhen. It is alleged that the police searched their house and confiscated two computers, documents, personal letters and books belonging to Mr. Zhao Shiyong without giving any justification. The wife and son of Mr. Zhao Shiyong were released on the same day but told by the police not to talk about their arrest and questioning.

426. On 12 January 2009, the wife of Mr. Zhao Shiyong was allegedly told by the police that her husband's case was being investigated but the police refused to reveal the charges pending against him.

427. It is alleged that the arrest and detention of Mr. Zhao Shiyong follow his signature of Charter 08, a public appeal calling for reforms to promote democracy and human rights in China, as well as his support to Mr. Liu Xiaobo, a Chinese writer and the author of Charter 08 who has been convicted. On 16 December 2009, Mr. Zhao Shiyong published a statement on the Internet seeking to share responsibility for the writing of Charter 08 with Mr. Liu Xiaobo. Mr. Liu Xiaobo was the subject of three previous communications sent to your Excellency's Government. The most recent allegation letter was sent on 5 January 2010 and concerned his conviction and sentence to 11 years in prison for "inciting subversion of State power."

428. Concern was expressed that the arrest and detention of Mr. Zhao Shiyong might be directly related to his work in defense of human rights and notably the non-violent exercise of his right to freedom of expression. Further concern was expressed that his detention might form part of a broader pattern to intimidate signatories and supporters of Charter 08.

Response from the Government

429. At the time this report was finalized, the reply of the Government of 23 February 2010 had not been translated.

Letter of allegations

430. On 22 January 2010, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations regarding the situation of **Mr. Feng Zhenghu, a Chinese human rights lawyer residing in Shanghai**. Mr. Feng is the signatory of Charter 08, a public appeal calling for reforms to promote democracy and human rights in China. He is also the publisher of "Witness to judicial injustices in Shanghai", a pamphlet that call attention to the lack of the independence of the Judiciary in China.

431. According to the information received, on 3 November 2009, Mr. Feng arrived at the Shanghai Pudong Airport. He was allegedly refused entry and placed on a plane back to Japan from where he had departed.

432. Upon arrival in Tokyo, Mr. Feng allegedly gave up his Japanese visa, saying that he did not want to enter Japan, but rather wanted to exercise his legal right to return to his own country and family. As of today, he allegedly remains in the Shanghai airport.

433. It is alleged that between June 7, 2009 and November 3, 2009, Mr. Feng made eight unsuccessful attempts to enter China. Each time he was allegedly denied entry despite of his Chinese passport being valid until 2012.

434. Furthermore, in 2000, Mr. Feng was sentenced to three years in prison for “illegal business activities” following the publication of a book, “Japanese Companies in Shanghai”, without official permission.

435. Concern was expressed that the deportation of Mr. Feng might be directly related to his work in defense of human rights and notably the non-violent exercise of his right to freedom of expression.

Observations

436. The Special Rapporteur thanks the Government of China for responding to most of his communications, but regrets that at the time of the finalization of the report, the Government had not transmitted any reply to his communication of 22 January 2010.

437. Notwithstanding the releases of Mrs. Liang Liwan in October 2009 and Chen Xi in December 2009, the Special Rapporteur urges the Government to transmit to him all relevant information regarding any investigation or prosecution in relation to these cases. The Special Rapporteur also urges the Government to transmit all relevant information concerning the case of Mr. Guo Quan and notably how his activities, in particular the publishing of his articles, amount to a threat to the national security.

Colombia

Llamamiento urgente

438. El 29 de diciembre de 2008, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias y el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con el asesinato del Sr. **Edwin Legarda**, esposo de la Sra. Aida Quilcué Vivas, Consejera Mayor del Consejo Regional Indígena del Cauca (CRIC).

439. La Sra. Aida Quilcué Vivas también ha tenido un papel importante en la Minga Nacional de Resistencia Indígena y Popular, una jornada de unidad comunitaria, social y popular convocada por la Organización Nacional Indígena de Colombia (ONIC) para defender la vida y los derechos territoriales, políticos, ambientales y alimentarios de las poblaciones indígenas. En octubre de 2008, las autoridades colombianas, incluyendo al Presidente, supuestamente justificaron la represión de esta Minga por parte de las Fuerzas Armadas de Colombia.

440. De acuerdo con las informaciones recibidas, el 16 de diciembre de 2008, a primeras horas de la mañana, entre las localidades de Inzá y Totoró, Departamento de Cauca, soldados del Batallón “José Hilario López” de la tercera división del Ejército habrían llevado a cabo un ataque armado contra el Sr. Edwin Legarda.

441. La víctima conducía una camioneta de la Consejería del CRIC con vidrios semipolarizados que se había asignado a su esposa, la Sra. Aida Quilcué Vivas.

442. En total 17 balas, disparadas desde varios ángulos, habrían llegado al vehículo. El Sr. Edwin Legarda se habría muerto unas horas después en un hospital.

443. Al momento del ataque el Sr. Edwin Legarda se dirigía a recoger a la Sra. Aida Quilcué Vivas, quien regresaba de Ginebra, Suiza, donde había asistido como representante del CRIC y delegada de la Organización Indígena de Colombia (ONIC) al Examen Periódico Universal (EPU) de Colombia en las Naciones Unidas.

444. Ante el EPU la Sra. Aida Quilcué Vivas habría denunciado las violaciones de derechos humanos de las cuales los pueblos indígenas son víctima, incluyendo supuestas ejecuciones extrajudiciales por parte de las fuerzas de seguridad.

445. Se expresó preocupación de que el asesinato del Sr. Edwin Legarda podría estar vinculado con las actividades de la Sra. Aida Quilcué Vivas en la defensa de los derechos humanos, en particular los derechos indígenas. Considerando que el vehículo conducido por el Sr. Edwin Legarda tenía vidrios semipolarizados y no se podía comprobar quién lo conducía, se expresó temor que el ataque podría haber sido dirigido contra la Sra. Aida Quilcué Vivas. Así se expresó gran preocupación por la integridad física y psicológica de la Sra. Aida Quilcué Vivas.

Respuesta del Gobierno

446. En dos cartas fechadas el 16 de marzo de 2009 y el 23 de marzo de 2009, el Gobierno respondió al llamamiento urgente. Según la información recibida del Gobierno, las alegaciones presentadas en el llamamiento urgente fueron exactas.

447. Se informó que el Sr. Presidente de la República de Colombia ha señalado las más profundas condolencias a la Sra. Aida Quilcué, a toda su familia, al CRIC y a toda la comunidad indígena.

448. Se expresó el gran interés del Estado en que los hechos que rodearon la muerte del Sr. Legarda sean esclarecidos lo más pronto posible y se informó que las autoridades judiciales se encuentran adelantando las investigaciones pertinentes, con total independencia y transparencia.

449. Se señaló que la misma mañana de los hechos, el Ministro de la Defensa y compañía pidieron una investigación a la Procuraduría, a la Fiscalía y al delegado de la Alta Comisionada para los Derechos Humanos, que preside la Delegación en Colombia. En este sentido, la Fiscalía 41 Delegada ante la Unidad de Derechos Humanos y DIH asumió la investigación por la muerte del Sr. Legarda. En desarrollo de esta investigación, el 16 de diciembre de 2008 la Seccional Policía Judicial (SIJIN) de Popayán proporcionó más de 40 pruebas documentales con diversos estudios técnicos y entrevistas y el 22 de diciembre de 2008, en el municipio de Totoró, la

Policía Judicial elaboró un programa metodológico y se allegaron varios documentos obtenidos por la Procuraduría Provincial de Popayán, así como el informe pericial de necropsia del Sr. Legarda y una diligencia de inspección judicial.

450. Asimismo, se informó que una Comisión del Cuerpo Técnico de Investigación (CTI) de Popayán se desplazó al sitio donde ocurrieron los hechos con el propósito de recolectar la evidencia física correspondiente. Esta Comisión observó que el sitio no se encontraba acordonada y habían varias personas en el sector.

451. Se señaló también que se recibieron informes del investigador de campo, entre ellos, un informe del laboratorio de toxicología.

452. Por otro lado la Procuraduría Provincial de Popayán abrió una indagación preliminar. El 17 de diciembre de 2008, visitó las instalaciones del Batallón José Hilarío López y se le solicitó al Comandante de mencionado Batallón copia de la orden de operaciones. Posteriormente, se recibieron las versiones libres de los 34 soldados que al parecer habrían participado en los hechos que presuntamente ocasionaron la muerte del Sr. Legarda.

453. Se informó que, el día 2 de febrero de 2009, la Procuraduría Provincial de Popayán recibió la declaración bajo la gravedad de juramento de la persona que se encontraba con la víctima el día de los hechos y de la Sra. Quilqué. A la fecha se encontraban a la espera de información solicitada al Batallón, así como de recibir otros testimonios que serían necesarios para adelantar la investigación disciplinaria.

454. Asimismo, se informó que las autoridades han fortalecido la protección de la Sra. Aida Quilqué y su familia.

El esquema de protección de la Sra. Quilqué está compuesto por:

Un vehículo blindado

Dos unidades de escolta pertenecientes a la guardia indígena

Dos medios de comunicación Avantel asignados a las dos unidades de escolta

Un celular y un Avantel asignados a la señora Aida Quilqué.

El esquema de protección de la hija de la Sra. Aida Quilqué está compuesto por:

Un vehículo blindado.

Una escolta perteneciente a la guardia. Indígena

Un Avantel asignado a la escolta.

Un Avantel asignado a la hija de la Sra. Aida Quilqué.

En otra carta fechada el 23 de marzo de 2009, se proporcionó la declaración detallada de los hechos y especificación del reporte e involucrados.

Llamamiento urgente

455. El 27 de enero de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con los actos de hostigamiento contra el Sr. **Yuri Neira**, miembro del Movimiento Nacional de Víctimas de Crímenes de Estado (MÓVICE) y coordinador de actividades del Salmón Cultural, un centro de encuentro para jóvenes donde se desarrollan varias actividades culturales como muestras de cine, talleres de danza, pintura, conciertos privados, actividades académicas y reuniones de análisis y estudio político.

456. El Sr. Yuri Neira es padre de Nicolás Neira, fallecido a consecuencia de los golpes propinados por la policía anti-disturbios el 1 de mayo de 2005. Según los informes, desde el asesinato de su hijo, el Sr. Yuri Neira ha venido realizando denuncias de la represión policial e impunidad, tanto dentro de sus actividades en el marco de la sección de Bogotá del MOVICE, como en su trabajo continuo con jóvenes en el centro “El Salmón Cultural”. Debido a sus actividades, ha sufrido cuatro intentos de asesinatos y ha sido igualmente objeto de arrestos arbitrarios, continuos seguimientos, amenazas y señalamientos.

457. Según las informaciones recibidas, el 16 de enero de 2009 por la tarde unos agentes del Departamento Administrativo de Seguridad (DAS) habrían procedido al allanamiento del inmueble en el cual se encuentra la sede del centro social “El Salmón Cultural” en Bogotá, en el que colabora el Sr. Yuri Neira.

458. El dispositivo del DAS habría contado con 25 personas fuertemente armadas y alrededor de ocho vehículos, entre los cuales se encontraba un carro anti-explosivos.

459. En el momento en que los efectivos del DAS habrían intentado entrar en el edificio, éste se habría encontrada sin ocupantes. Las puertas del primer piso, las rejas de la entrada y la puerta que da lugar a la escalera habría mostrados claros signos de haber sido forzadas.

460. Hacia las 16h00, habría llegado el arrendatario del segundo piso, donde se ubica “El Salmón Cultural”. El Sr. Yuri Neira habría afirmado que el allanamiento en curso sólo podía llevarse a cabo en presencia de un funcionario de la Defensoría del Pueblo. Esta persona llegaría hacia las 16h30 y diez minutos más tarde, se presentaría también un representante del programa de Derechos Humanos del Senado de la República.

461. Hacia las 17h20, se habría personado en el lugar la Fiscal 304 delegada ante el DAS, la cual no habría permitido la presencia de los abogados de la defensa durante el proceso de allanamiento. Por otra parte, la orden de allanamiento, que carecía de autorización por un juez de garantías, se basaba en supuestos informes de inteligencia del DAS.

462. En el marco de la inspección, un funcionario del DAS habría tomado varias fotografías de las instalaciones así como de las personas presentes en el lugar. Hacia las 21h30, los agentes del DAS se habrían retirados, sin haber podido encontrar algún indicio de delito.

463. Además, el 17 de enero de 2009, hacia las 20h30, dos hombres se habrían presentados en el centro “El Salmón Cultural” preguntando por el Sr. Yuri Neira. Cuando éste habría afirmado

que no se encontraba en el lugar, uno de los hombres habría afirmado “éste es, dele, dele”. Luego uno de los hombres habría cogido al Sr. Yuri Neira del brazo mientras el otro le habría repetido “hágale, hágale”. Al llegar varias personas al lugar, se habría conseguido cerrar la puerta, con lo cual los dos agresores se habrían quedado fuera del local. A los cinco minutos, y tras haber intentado entrar en vano por la fuerza, éstos habrían abandonados el lugar.

464. Se expresó temor que el allanamiento del local del centro “El Salmón Cultural” así como la agresión sufrida por el Sr. Yuri Neira podrían estar relacionados con sus actividades de defensa de los derechos humanos. En visto de lo aquí resumida se expresó preocupación por la integridad física y psicológica del Sr. Yuri Neira.

Llamamiento urgente

465. El 28 de enero de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con las amenazas contra **Asesoría y Servicios Legales para Refugiados (ASELER)**.

466. ASELER es una organización no gubernamental ubicada en Quito, que brinda asesoría y servicios legales a demandantes de asilo y a ciudadanos colombianos refugiados en Ecuador.

467. Según las informaciones recibidas, el 15 de enero de 2009, aproximadamente a las 20:30, dos personas y sus familias - miembros de la Asociación de Personas en Condición de Refugio en el Ecuador (ASOREC), que proporcionaban alojamiento a un cliente de ASELER - habrían hallado una carta de amenaza en la entrada de su casa, en la que se les habría declarado como objetivos militares. Dicha misiva habría sido firmada por el Comando Central de las Águilas Negras de Colombia en Rearme (Águilas Negras), un grupo armados ilegales surgidos del proceso de desmovilización de organizaciones paramilitares.

468. El día anterior, el 14 de enero de 2009, la ASOREC habría recibido otra carta de amenaza firmada por el mismo grupo armado. Esta carta habría expresado la intención de acabar con la vida de cuatro personas, incluyendo a un cliente de ASELER y su familia. Asimismo, habría declarado como objetivos militares a todos los grupos de derechos humanos, defensores de derechos humanos y organizaciones sociales que puedan dificultar la labor de las “Fuerzas Militares.” Además, otras organizaciones que proporcionan apoyo a las cuatro personas mencionadas, también habrían sido enumeradas como objetivos militares.

469. ASELER habría presentado una denuncia por intimidación en el Ministerio Público de Ecuador por las amenazas que recibió su cliente el día miércoles 14 de enero (denuncia 09-01-14129). También se habrían solicitado medidas cautelares a la Comisión Interamericana de Derechos Humanos a favor de su cliente.

470. Luego de la segunda amenaza recibida por los dirigentes de ASOREC, se habría realizado una nueva denuncia el martes 20 de enero y se habría pedido una ampliación a las medidas cautelares presentas ante la Comisión Interamericana de Derechos Humanos para los dirigentes de ASOREC y el personal de ASELER.

471. El 9 de enero de 2009, aproximadamente a las 12:45 habría sido entregada en las oficinas de ASELER una carta que el portero del edificio habría encontrado sobre su escritorio. La carta, que habría sido firmada por el Secretariado del Estado Mayor Central de las Fuerzas Armadas Revolucionarias de Colombia, Ejército del Pueblo (FARC-EP) habría contenida una lista de 11 refugiados colombianos en Ecuador, cinco de los cuales habrían sido clientes de ASELER, señalándolos como objetivos militares. La carta también habría solicitado la colaboración de camaradas con el fin de tomar represalias contra varias organizaciones (en total 5 organizaciones), todas ellas vinculadas a algunas de las personas enumeradas como objetivos militares en la misma carta. En rojo, en la parte superior de la carta, se habría podido leer “GRUPO DE BUSQUEDA Y LIMPIEZA FARC-EP Guerrilla Urbana” y el fondo de la carta habría consistido en la silueta del mapa de Colombia sobre la que se habría encontrado el texto “FARC-EP” sobre la imagen de un libro abierto y dos fusiles cruzados.

472. El mismo día, ASELER habría presentado una denuncia por intimidación ante el Ministerio Público (trámite número 09-01-09075). También se habrían solicitado medidas cautelares a la Comisión Interamericana de Derechos Humanos a favor de las personas enumeradas en la carta como objetivos militares.

473. Se expresó temor que las amenazas contra ASELER, así como contra las personas y organizaciones mencionadas, podrían estar motivadas por su trabajo legítimo de defensa de los derechos humanos, específicamente por el apoyo que se da a refugiados en el Ecuador. En vista de lo aquí resumido, se expresó preocupación por la integridad física y psicológica de los miembros de ASELER.

Llamamiento urgente

474. El 20 de marzo de 2009, el Relator Especial, junto con el Relator Especial sobre la independencia de magistrados y abogados y la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con los procesos judiciales en contra del sacerdote **Javier Giraldo**, el abogado **Elkin Ramírez Jaramillo**, y el Sr. **Miguel Ángel Afanador**.

475. El Padre Javier Giraldo es defensor de derechos humanos y miembro del el Centro de Investigación y Educación Popular (CINEP), el abogado Elkin Ramírez Jaramillo es el director de la Corporación Jurídica Libertad y el Sr. Miguel Ángel Afanador, fue Defensor del Pueblo en la región de Urabá, Antioquia.

476. El CINEP es una organización no gubernamental, creada por la Compañía de Jesús en el año de 1962, comprometida con la transformación social, económica y política de Colombia desde los sectores excluidos, considerando que los mismos son agentes importantes en la construcción de una nueva sociedad y que su participación en las decisiones fundamentales que les conciernen se constituye en una garantía para producir un impacto de cambio en la sociedad colombiana.

477. Desde su fundación en 1993, la Corporación Jurídica Libertad viene desarrollando, entre otras, actividades como representación legal a las víctimas de crímenes de lesa humanidad en busca de verdad, justicia y reparación; presentación de demandas ante los organismos

internacionales de protección de los derechos humanos; defensa penal de personas sindicadas de pertenecer a grupos insurgentes, así como de líderes sociales y comunitarios vinculados judicialmente por o con ocasión de sus actividades políticas o en razón de su opinión, y la elaboración de informes e investigaciones para divulgar la situación de los derechos humanos.

478. Según la información recibida, el 13 de febrero de 2009, la Fiscalía 216 seccional de la ciudad de Bogotá habría ordenado reabrir la investigación y vincular mediante indagatoria al Padre Javier Giraldo y al abogado Elkin Ramírez por los presuntos delitos de injuria, falsa denuncia y calumnia, en razón de varias denuncias instauradas por el Coronel Néstor Iván Duque López, antiguo Comandante del Batallón “Bejarano Muñoz” de la Brigada XVII, en la región de Urabá.

479. Las denuncias del Coronel Duque López se habrían basado en que el 22 de febrero de 2005, un día después de ocurrida la masacre de San José de Apartadó, hechos en los que según las alegaciones recibidas, se habría demostrado la participación de miembros de la Brigada XVII del Ejército Nacional junto con paramilitares, el Padre Javier Giraldo habría denunciado estos hechos y a sus responsables ante los medios de comunicación. Posteriormente, el 18 y 25 de mayo del mismo año, el Padre Javier Giraldo habría denunciado los mismos hechos ante la Comisión Segunda de la Cámara de Representantes.

480. Asimismo, el 12 de marzo de 2004 el Sacerdote Javier Giraldo, el abogado Elkin Ramírez y el Sr. Miguel Ángel Afanador, habrían denunciado ante las autoridades políticas del país y ante organismos nacionales e internacionales de derechos humanos graves irregularidades cometidas por personal perteneciente al Batallón de Ingenieros “Carlos Bejarano Muñoz”, de la Brigada XVII del Ejército, con sede en Carepa, Antioquia, cuyo comandante era el Coronel Néstor Iván Duque López.

481. La información relacionada con tales hechos habría sido también presentada ante la Corte Interamericana de Derechos Humanos (CoIDH), instancia que dispuso medidas especiales de protección en favor de la Comunidad de Paz de San José de Apartadó, lo que originó que en septiembre de 2005, el Coronel Duque López formulara otra denuncia contra el Padre Javier Giraldo, el abogado Elkin Ramírez Jaramillo y el Sr. Miguel Ángel Afanador por los delitos de injuria, calumnia y falsa denuncia. Dicha denuncia habría conllevado el inicio de una investigación preliminar, resuelta en primera instancia con inhibición y archivo de las diligencias.

482. Dicha decisión inhibitoria habría sido revocada por la segunda instancia (la Fiscalía 216 Seccional de Bogotá), en virtud de un recurso de apelación interpuesto por el representante legal del Coronel Duque López. Asimismo habría ordenado la reapertura formal de la investigación y la vinculación del Padre Javier Giraldo y del abogado Elkin Ramírez Jaramillo mediante indagatoria.

483. Según las informaciones recibidas, esta diligencia, que debería comenzar durante el mes de marzo de 2009, conllevaba el riesgo de que el derecho a la libertad individual de los mencionados defensores de derechos humanos pueda verse afectado por el hecho de haber actuado en el marco de su trabajo y por haber presentado una solicitud legítima ante el Sistema Interamericano de protección de los Derechos Humanos.

484. En vista de lo aquí resumido, se expresó preocupación por la integridad física y psicológica del Padre Javier Giraldo, el abogado Elkin Ramírez Jaramillo y el Sr. Miguel Ángel Afanador. Se expresó temor que el hostigamiento contra dichos defensores, en particular en virtud de los procesos judiciales existentes contra ellos, podría estar relacionado con su trabajo legítimo en defensa de los derechos humanos en Colombia.

Llamamiento urgente

485. El 24 de marzo de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con el asesinato del Sr. **Álvaro Miguel Rivera Linares Rivera**, defensor de los derechos de la población Lesbianas, Gay, Bisexuales y/o Transgeneristas (LGBT) en la ciudad de Santiago de Cali, Valle del Cauca, Colombia.

486. El Sr. Álvaro Miguel Rivera hizo parte de diferentes organizaciones y proyectos que promueven los derechos de la población LGBT, como la Red Colombiana de Personas Viviendo con VIH 'RECOLVIH', de la cual fue uno de los gestores, y la cual trabaja en gran medida en defensa de los derechos de las personas que conviven con el virus del VIH/SIDA. Según las informaciones el Sr. Rivera Linares también fue gestor del Colectivo Tinku, apoyó los procesos de formación de la Confluencia de Organizaciones "Líderes y Líderesas del Sector LGBT" y fue gestor de la Tercera Marcha del Orgullo LGBT en Cali "Katari 2008".

487. Según la información recibida, el 6 de de marzo de 2009, el Sr. Álvaro Miguel Rivera Linares, habría sido hallado muerto en su apartamento, maniatado, amordazado y con golpes en varias partes del cuerpo y en la cabeza.

488. En razón de su trabajo, el Sr. Rivera Linares habría sido amenazado en varias ocasiones anteriores. En el año 2001, el Sr. Rivera Linares habría sido amenazado por su trabajo y se habría visto obligado a desplazarse forzosamente tras haber denunciado la práctica de exámenes forzados de VIH/SIDA por parte de la guerrilla.

489. El homicidio del Sr. Álvaro Miguel Rivera, se habría sumada a las cerca de 60 muertes por prejuicio contra el género ocurridas entre 2006 y 2007 en Colombia, así como al homicidio de otro defensor de derechos humanos de la población LGBT, el Sr. Fredys Pineda quien habría sido asesinado en Apartadó (Departamento de Antioquia) en febrero de 2008.

490. La muerte del Sr. Álvaro Miguel Rivera habría ocurrido en un momento en el que se habría denunciado la violencia generalizada contra la población LGBT en Cali, entre la cual se habría contado abusos por parte de la Policía y detenciones arbitrarias, especialmente contra la población travestis en ejercicio de la prostitución.

491. El 1 de febrero de 2009 habría sido asesinada en su peluquería en Cali la estilista transgeneristas Sharon Perea, y al día siguiente habría muerta la Sra. Susana (Alejandro Gómez Fajardo) en el Barrio Granada por un disparo de arma de fuego. También el 1 de febrero de 2009 habría sido asesinada en Pereira, Risaralda, la trabajadora sexual la Sra. Ariadna Paniagua.

492. Varias mujeres transgeneristas, en particular trabajadoras sexuales, habrían denunciado una “campaña” llamada de “prevención” por parte de algunos policías en Santiago de Cali, bajo la cual ellos las habría obligados a llenar un formulario con datos personales, fotos y huella digital. Las que no habrían aceptada esta encuesta habría sido arrestadas y llevadas a una estación de policía y sólo habría sido liberadas al aceptar brindar los datos exigidos.

493. A pesar de la denuncia de esta práctica por parte de la ONG Santamaría Fundación ante las autoridades competentes (Policía Metropolitana de Cali, Defensoría y Personería), varias mujeres transgeneristas habrían seguido siendo hostigadas, arrestadas arbitrariamente, y amenazadas impunemente por los mismos policías al denunciar estos actos. Entre los 30 casos registrados por Santamaría Fundación, está el de Britney Vanessa Cabral, quien habría sido arrestada hacia las 22h00 del 7 de febrero de 2009 en el Barrio Granada y llevada a la Estación de policía La Flora. Esta situación se habría venido denunciando desde hace algunos años por varias organizaciones de defensa de los derechos de esa comunidad y por activistas como el Sr. Álvaro Miguel Rivera. Según las denuncias, habría persistido la inacción de las entidades estatales concernidas frente a esta situación.

494. Se agradeció la nueva legislación colombiana que reconoce los derechos de las uniones homosexuales. Sin embargo se expresó temor que la muerte del Sr. Álvaro Miguel Rivera podría estar relacionada con su trabajo legítimo en defensa de los derechos de la comunidad LGBT. En visto de lo aquí resumida se expresó preocupación por la integridad física y psicológica y la seguridad de todas las personas de la comunidad LGTB que han sido víctimas de atropellos y/u hostigamientos.

Respuesta del Gobierno

495. En una carta fechada el 19 de junio de 2009, la Misión Permanente de Colombia respondió al llamamiento con información elaborada por la Dirección de Derechos Humanos del Ministerio de Relaciones Exteriores de Colombia. Dicha carta confirmó las alegaciones presentadas en el llamamiento urgente. Según la carta, se inició una investigación y el 18 de marzo de 2009, en asocio con el investigador judicial asignado, se elaboró el programa metodológico en el que se ordenaron algunas pruebas tales como entrevistas en el vecindario, actividad laboral del occiso y otras con el fin de facilitar el esclarecimiento de los hechos.

496. Según la carta, una vez asumida la investigación, se adelantaron las siguientes diligencias: Entrevista recibida por investigador de campo, informe del investigador de laboratorio con la fijación polimétrica del lugar de los hechos y los planos topográficos respectivos, informe con documentación fotográfica.

497. Se ha cumplido la recepción de entrevistas, se allegó el protocolo de la necropsia número 20090101760011000558 suscrito por el médico forense el 7 de abril de 2009, e igualmente se recibió el informe del investigador de campo adscrito al CTI, en el que se adjuntó la documentación fotográfica sobre la escena de los hechos.

498. Se informó que al momento de rendir el informe, no se habrían tomado decisiones de fondo y en el transcurso de la etapa investigativa no se ha contado con agencia especial del Ministerio Público.

499. Asimismo, se informó que los hechos presentados en la comunicación y las presuntas violaciones contra los derechos de las personas transexuales en Cali han sido tratados con especial atención, con el fin de propiciar un escenario de respuesta interinstitucional.

500. Según la carta, en enero de 2009 se convocó una reunión en la que participaron representantes de la Alcaldía de Cali y dos organizaciones LGBT.

501. Se informó que, entre otras decisiones tomadas, la policía metropolitana nombró un oficial de enlace para atender las peticiones de la población LGBT.

502. En relación con el tema de orientación sexual y derechos humanos en general, cabe señalar que, de conformidad con lo previsto en el artículo 13, del Decreto 4530 de 2008, por el cual se modificó la estructura del Ministerio de interior y de justicia, son funciones de la Dirección de Asuntos Indígenas, Minorías y Rom, entre otras las siguientes:

503. “3. Diseñar programas de asistencia técnica. Social y de apoyo a la política para comunidades indígenas. Rom y poblaciones LGTB Lesbianas, gays, transexuales y bisexuales”.

504. “9. Prestar asesoría a las gobernaciones y alcaldías municipales para la debida atención a las comunidades indígenas, al pueblo Rom y a la población LGTB”.

505. Se informó que, en atención a lo anterior, el Gobierno está concertando una cita con el Director de Asuntos indígenas, Minorías y Rom del Ministerio del Interior y de Justicia, con el fin de generar una dinámica de concertación para impulsar políticas públicas sobre la materia, que propicien transformaciones tendientes a superar la violencia ejercida contra esa población.

Llamamiento urgente

506. El 9 de abril de 2009, el Relator Especial, junto con el Relator Especial sobre la independencia de magistrados y abogados, la Relatora Especial sobre la situación de los defensores de los derechos humanos y la Relatora Especial sobre una vivienda adecuada como elemento integrante del derecho a un nivel de vida adecuado y sobre el derecho de no discriminación a este respecto enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con las amenazas contra las señoras **Blanca Irene López y Claudia Erazo** y el Sr. **Rigoberto Jiménez**.

507. Blanca Irene López y Claudia Erazo son abogadas de derechos humanos que trabajan para la Corporación Jurídica Yira Castro (CJYC), una organización que defiende los derechos de comunidades campesinas y de las víctimas del desplazamiento forzado. Rigoberto Jiménez es el líder de la Coordinación Nacional de Desplazados.

508. Blanca Irene López y la CJYC ya fueron objeto de una comunicación de la entonces Representante Especial del Secretario General sobre la situación de los defensores de derechos humanos enviada el 4 de diciembre de 2007.

509. Según la información recibida, el 26 de marzo de 2009, la CJYC habría recibido una amenaza de muerte por correo electrónico enviada a Blanca Irene López y Claudia Erazo por el AUC Bloque Capital de las Águilas Negras, una rama del grupo paramilitar autodenominado las Águilas Negras. Este correo electrónico habría sido el octavo de una serie de amenazas idénticas enviadas a la CJYC desde 2007.

510. Asimismo, el 4 de febrero de 2009, habría llegado al correo electrónico de la CJYC y al de la Coordinación Nacional de Desplazados otro mensaje de amenazas de muerte del mismo grupo (Águilas Negras AUC Bloque Capital), dirigido esta vez no sólo contra Blanca Irene López y Claudia Erazo, sino también contra Rigoberto Jiménez.

511. La CJYC habría denunciado estas amenazas y otros incidentes tales como el sabotaje de su página Web y un allanamiento de su sede, en el que se habría sustraído información relacionada con violaciones de los derechos humanos en Colombia. El 6 de marzo de 2009, la CJYC habría enviado una petición pública a la Fiscalía General de la Nación, solicitando información sobre las medidas tomadas en relación con estas amenazas y ataques. Sin embargo, hasta la fecha no se habría recibido ninguna respuesta.

512. Se expresó temor que las amenazas en contra de las abogadas Blanca Irene López y Claudia Erazo, y el Sr. Rigoberto Jiménez podrían estar relacionadas con su trabajo en defensa de las poblaciones desplazadas. En vista de lo aquí resumido, se expresó preocupación por su integridad física y psicológica.

Carta de alegaciones

513. El 15 de junio de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron una carta de alegaciones señalando a la atención urgente del Gobierno la información recibida en relación con el asesinato del Sr. **Edgar Martínez**, miembro de la Federación Agrominera del Sur de Bolívar (FEDEAGROMISBOL). El Sr. Martínez también era Presidente de la Asociación de Integración de Comunidades Agrominera Sur – Sur, ASICASS, delegado de la Junta de Acción comunal de la vereda el Retorno del Municipio de San Pablo; vocero de la Mesa de Integración Social por la transformación social de San Pablo; miembro del equipo coordinador de los proyectos productivos de la Zona Edgar Quiroga de la Federación Agrominera del Sur de Bolívar y vocero de la Comisión de Interlocución del Sur de Bolívar por parte de las comunidades.

514. La FEDEDEAGROMISBOL ya fue objeto de una comunicación de la Representativa Especial sobre la situación de los defensores de derechos humanos que envió una carta el 24 de noviembre de 2006 sobre el asesinato del líder de la organización, el Sr. Alejandra Uribe Chacon por presuntos miembros del Ejército Nacional en el sur de Bolívar.

515. Según la información recibida, el 22 de abril de 2009, entre las 09h00 y las 10h00 el Sr. Martínez habría sido asesinado en el municipio de San Pablo, en el sur del departamento de Bolívar, cuando se habría dirigido en su motocicleta a su vivienda ubicada en la vereda el retorno del mismo municipio. El asesinato se habría producido en un lugar conocido como “El Cuatro”, cercano a un retén de la policía nacional, ubicado en la salida del casco urbano de San Pablo, cuando sicarios que le habrían propinado cinco disparos en la cabeza que le habría causado la muerte de forma instantánea.

516. El Sr. Martínez se encontraba desde el 21 de abril de 2009 en el municipio de San Pablo, al no haber podido salir del mismo debido a que la policía nacional se lo habría impedido. Él habría pretendido llegar al corregimiento de Monterrey ante lo cual la policía habría manifestado que le estaba prohibido dirigirse hacia allí porque habrían asesinado a unos policías. Al poco rato, el Sr. Martínez habría intentado salir nuevamente del casco urbano de San Pablo hacia su vivienda pero en el mismo retén de la policía, se le habría informado que no podía hacerlo porque era muy tarde.

517. Según se informó, la situación de los derechos humanos de las comunidades del sur de Bolívar habría sido denunciada permanentemente. El 18 de marzo de 2009, los grupos paramilitares que operan en el Sur de Bolívar, manifestaron públicamente su presencia armada y accionar en la región del Sur de Bolívar, autodenominándose “Autodefensas Gaitanistas de Colombia”.

518. El 30 de enero de 2009, en el marco de la Mesa de Interlocución del Sur de Bolívar, en la cual se habrían reunidos más de 100 líderes del sur de Bolívar para discutir con delegados del gobierno nacional sobre la problemática del Territorio, y en donde se habrían denunciado el peligro que existía sobre el municipio, al querer implementar una planta de procesamiento de palma aceitera para la producción de Biodiesel, así como la proliferación de este monocultivo y la dedicación de cada vez más área municipal a este cultivo, poniendo en riesgo la diversidad biológica, los recursos hídricos, y la soberanía y seguridad alimentaria de los pobladores del municipio.

519. En visto de lo aquí resumida se expresó temor que el asesinato del Sr. Edgar Martínez podría estar relacionado con su trabajo para los derechos de los campesinos en Colombia. Se expresó temor por la integridad física y psicológica de los otros dirigentes del FEDEAGROMISBOL que según la información recibida corren peligro.

Respuesta del Gobierno

520. En una carta fechada el 4 de agosto de 2009, la Misión Permanente de Colombia informó que habrían remitido al Vicepresidente de la República y al Ministro de Relaciones Exteriores el llamamiento urgente de la Relatora Especial.

Carta de alegaciones

521. El 30 de julio de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la independencia de magistrados y abogados, enviaron una carta de alegaciones señalando a la atención urgente del Gobierno la información recibida en relación con los actos ilegales de vigilancia, incluidas interceptaciones telefónicas, de correos electrónicos y seguimientos sin orden judicial, en contra de varias organizaciones de derechos humanos y sus dirigentes, incluso los presidentes de la **Corporación Colectivo de Abogados José Alvear Restrepo (CCAJAR)** y de la **Comisión Colombiana de Juristas (CCJ)**, el Sr. **Alirio Uribe Muñoz** y **Gustavo Gallón**, respectivamente; así como otras ONGs, entre ellas, **CODHES**, **Redepaz**, **Cáritas Diocesanas**, **Colectivo de Abogados Luis Carlos Pérez**, **Corporación Siempre Viva**, **Diakonia Colombia**, **ILSA**, **MINGA** y el **Movimiento Cimarrón**. Asimismo, quisiéramos referirnos a los actos ilegales de vigilancia llevados a cabo respecto de varios jueces, incluyendo magistrados de las

Altas Cortes, entre ellos, Jaime Araujo Rentería, Magistrado del Consejo Nacional Electoral y ex Magistrado de la Corte Constitucional, Julio Arturo Beltrán Sierra, ex magistrado auxiliar de la Corte Suprema de Justicia, Rodrigo Escobar Gil, magistrado de la Corte Suprema de Justicia, Clara Inés Vargas, ex magistrada de la Corte Constitucional y Carlos Vicente de Roux Rengifo, ex juez de la Corte Interamericana de Derechos Humanos; así como periodistas, entre ellos, Holman Morris y Daniel Coronell.

522. Según la información recibida, en un artículo publicado el 25 de abril de 2009, la revista *Semana* informó que de acuerdo con la investigación preliminar por parte de la Fiscalía, el Departamento Administrativo de Seguridad (DAS) habría realizado desde 2004 una operación específica en contra de las organizaciones de derechos humanos llamada “Transmilenio.” En esta operación el DAS habría monitorizado las finanzas, movimientos, ubicación, composición del núcleo familiar y medios de transporte de los miembros del Colectivo de Abogados José Alvear Restrepo, en particular el presidente de dicha organización, el Sr. Alirio Uribe Muñoz, así como de otras organizaciones de derechos humanos colombianas, entre ellas, CODHES, Redepaz, Cáritas Diocesanas, Comisión Colombiana de Juristas, en particular su presidente, Sr. Gustavo Gallón, Colectivo de Abogados Luis Carlos Pérez, Corporación Siempre Viva, Diakonia Colombia, ILSA, MINGA y Movimiento Cimarrón.

523. Asimismo, se informó que se habrían realizado acciones similares de inteligencia respecto de varios jueces, incluyendo algunos magistrados y ex magistrados de la Corte Suprema de Justicia y de la Corte Constitucional, entre ellas, interceptaciones telefónicas e investigaciones de sus movimientos bancarios sin orden judicial. Según las alegaciones recibidas, la Fiscalía habría encontrado investigaciones de inteligencia respecto de varios jueces, entre ellos, Jaime Araujo Rentería, Magistrado del Consejo Nacional Electoral y ex Magistrado de la Corte Constitucional, Julio Arturo Beltrán Sierra, ex magistrado auxiliar de la Corte Suprema de Justicia, Rodrigo Escobar Gil, magistrado de la Corte Suprema de Justicia, Clara Inés Vargas, ex magistrada de la Corte Constitucional y Carlos Vicente de Roux Rengifo, ex juez de la Corte Interamericana de Derechos Humanos.

524. Según las informaciones recibidas, el 28 de mayo de 2009, el Fiscal General de la Nación llamó a indagatoria a cuatro líderes del DAS por su presunta responsabilidad en actos ilegales de vigilancia, incluidos “los delitos de concierto para delinquir, violación ilícita de comunicaciones, utilización ilícita de equipos transmisores o receptores; abuso de autoridad, falsedad ideológica en documento público, destrucción, supresión u ocultamiento de documento público; y fraude procesal en sus actos de vigilancia” en contra de, entre otros, magistrados de las Altas Cortes, periodistas y organizaciones de derechos humanos. Asimismo, recientemente se habría llamado a rendir indagatoria a la ex directora del DAS, María del Pilar Hurtado por los delitos de concierto para delinquir, abuso de autoridad y falsedad en documento.

525. Según se informó, en 2004 el DAS habría creado el primer Grupo Especial de Inteligencia llamado G-3 para realizar “seguimientos a organizaciones o personas de tendencia opositora frente a las políticas gubernamentales, con el fin de restringir o neutralizar sus acciones.” Este grupo habría actuado durante 2004 y 2005. Según el Fiscal General de la Nación, Mario Iguarán Arana, “se encontró que varias personas acordaron y ejecutaron interceptaciones telefónicas, de correos electrónicos y seguimientos sin orden judicial, o utilizándola de manera arbitraria.”

526. Se alegó que durante la semana del 19 al 23 de enero de 2009, gran parte de los documentos públicos del DAS habrían sido destruidos o ocultados por funcionarios del DAS.

527. En vista de lo aquí resumido se expresó temor que los actos ilegales de vigilancia en contra de varias organizaciones de derechos humanos y sus dirigentes, incluido el Colectivo de Abogados José Alvear Restrepo, y en particular el presidente de dicha organización, el Sr. Alirio Uribe Muñoz, así como la Comisión Colombiana de Juristas, y en particular su presidente, Sr. Gustavo Gallón, al igual que las organizaciones de derechos humanos arriba mencionadas; podrían estar relacionados con su trabajo en defensa de derechos humanos en Colombia. Se expresó temor por la integridad física y psicológica de los Sres. Alirio Uribe Muñoz y Gustavo Gallón, así como de los miembros de las organizaciones de defensores de derechos humanos mencionadas y demás personas que estuvieron bajo vigilancia del DAS. Asimismo, se expresó una profunda preocupación por las graves consecuencias que podrían tener estos actos ilegales de vigilancia sobre de la independencia del poder judicial.

Respuesta del Gobierno

528. En tres cartas fechadas 4 de agosto de 2009, 2 de octubre de 2009 y 26 de octubre de 2009, el Gobierno respondió a la carta de alegaciones. En la primera carta se informó que la exactitud de los hechos será determinado por los resultados de las investigaciones penales y disciplinarias que ya fueron iniciadas por las autoridades competentes con fundamento en la denuncia penal presentada por el Dr. Felipe Muñoz, director del Departamento Administrativo de Seguridad (DAS), luego de que informaciones de prensa dieran a conocer a la opinión pública sobre estas actuaciones.

529. La carta subrayó el hecho de que las presuntas actividades ilegales de inteligencias adelantadas por algunas personas vinculadas al DAS de las que presuntamente fueron víctimas opositores, organizaciones sociales, magistrados, miembros del Gobierno Nacional - entre otros - no hacen parte de una política del Gobierno.

530. Asimismo, se informó que ya existe una investigación penal en curso con el propósito de esclarecer los hechos denunciados, así como para identificar e individualizar a los responsables.

531. Según la carta, en reiteradas oportunidades, las más altas autoridades del Gobierno Nacional han condenado públicamente de la manera más enérgica este tipo de prácticas, manifestando así mismo su mayor interés en el esclarecimiento de los presuntos hecho ilícitos que involucran la responsabilidad de algunas personas vinculadas al DAS.

532. El Ministro del Interior y de Justicia explicó que no solo estaban interceptados los teléfonos de los magistrados, periodistas y congresistas, sino también miembros del alto Gobierno.

533. Asimismo, se informó que, el 21 de febrero de 2009, el DAS expidió una comunicación pública en el que rechazó ese tipo de acción y se informó que nunca se han dado instrucciones para realizar las interceptaciones a las que se refiere la información periodística. Asimismo, se afirmó que hacer interceptaciones sin la debida orden judicial constituye un delito sancionado por la legislación penal colombiana.

534. En el marco de la investigación penal, el Fiscal General de la Nación ha ordenado la práctica de diversas pruebas, tales como el registro de las instalaciones del DAS donde funcionan los equipos de interceptación, entrevistas a funcionarios de las áreas de Inteligencia y Contrainteligencia e inspecciones a los protocolos y a los libros de registros.

535. Se informó que se creó un grupo élite para que se encargara de iniciar el proceso de investigación en torno a las supuestas grabaciones que de manera ilegal se habrían realizado a varias personas de la vida pública. Se designó a dos fiscales delegados ante la Corte Suprema de Justicia y a 10 investigadores del CTI para adelantar las averiguaciones respectivas.

536. Adicionalmente, la Procuraduría General de la Nación ha iniciado la correspondiente investigación disciplinaria, con el propósito de establecer las responsabilidades disciplinarias de los servidores públicos involucrados en estos hechos, e imponer las sanciones a que haya lugar. La Fiscalía informó que se ordenaron entrevistas con funcionarios de las áreas de inteligencia y contrainteligencia para establecer posibles responsabilidades, y aseguró que se les ofrecerán todos los beneficios a quienes colaboren para esclarecer el caso.

537. Cabe añadir que el Director General del DAS ha tomado la iniciativa para implementar diversas medidas administrativas, dentro de las cuales se destaca las renunciaciones aceptadas de los subdirectores de Análisis y de Operaciones, que hacen parte de la Dirección General de Inteligencia; traslados y rotaciones internas de persona, así como cambios en la estructura organizacional del DAS. De igual manera, el Director General ordenó la desvinculación de 54 funcionarios, los cuales después de diferentes verificaciones, resultaron no confiables para permanecer al servicio de la Entidad.

538. El DAS encontró que el inventario de aparatos de interceptación está completo, con lo cual, en su criterio, se descartaría la hipótesis de que las interceptaciones se hicieron con un equipo robado hace unos meses. Se estableció además que un ex funcionario de la institución, de la seccional de inteligencia, estaría atrás de la supuesta red mafiosa dedicada a interceptar a magistrados, fiscales, funcionarios del alto Gobierno, policías, políticos y periodistas.

539. Asimismo, uno de los principales expertos en el mundo en peritaje forense de audio elaboró un estudio acerca de estas interceptaciones, como resultado del cual concluyó que las más recientes grabaciones denunciadas NO se realizaron desde las salas fijas del DAS ni desde los equipos móviles.

540. El Gobierno Nacional impulsó al interior del Congreso de la República, la aprobación de una nueva Ley de inteligencia (Ley 1288 de 5 de marzo de 2009), la cual contiene disposiciones que garantizan el correcto uso de las herramientas de inteligencia y contrainteligencia, por parte de las entidades competentes para ello.

541. Se subrayó que el Estado de Colombia protege, reconoce y garantiza la labor periodística, de las Organizaciones defensoras de Derechos Humanos y de las organizaciones sindicales, y en este sentido, condena y rechaza cualquier acción violenta en contra de los líderes sindicales y sindicalistas, defensores de Derechos Humanos, periodistas y en general de cualquier ciudadano en el país.

542. Asimismo, se informó que el Gobierno Nacional apoya, reconoce y respeta la actividad de la Rama Judicial y en este sentido, brinda las garantías necesarias para que los Honorables Magistrados de las Altas Cortes puedan desarrollar su labor en total independencia y seguridad.

543. Por último, se informó que el Estado de Colombia brinda todas las medidas de protección y seguridad necesarias a quienes consideren se encuentran en grave situación de riesgo y/o amenaza, por razón de su actividad sindical, civil, social, periodística etc.

544. En relación con las medidas de protección adoptadas, se informó que han implementado varias medidas a favor de 10 personas: esquema duro con vehículo blindado, escolta, medio de comunicación Avantel, uso personal medio de comunicación Avantel (uso de escoltas), blindaje de residencia. Asimismo, se informó que la Corporación Colectivo de Abogados “José Alvear Restrepo” es beneficiaria de medidas cautelares solicitadas por la Honorables Comisión Interamericana de Derechos Humanos desde el 11 de mayo de 2000.

545. Asimismo, se informó que la Comisión Colombiana de Juristas (que también es beneficiaria de medidas cautelares solicitadas por la Honorable Comisión Interamericana de Derechos humanos desde el 4 de diciembre de 2003) ha afirmado que no acepta medidas de protección materiales, ya que manifiestan no estar de acuerdo con las medidas que brinda el Programa de Protección del Ministerio del Interior y de Justicia, sino que solicitan la implementación de medidas políticas por parte del Estado colombiana.

546. Se informó que se ha implementado medidas protectoras y de carácter colectivo para la Asociación para la Promoción Social Alternativa (MINGA), también beneficiaria de medidas cautelares solicitadas por la Honorable Comisión Interamericana d Derechos Humanos, desde el 10 de julio de 2008.

547. Asimismo se informó que el periodista Hollman Morris, beneficiario del Programa de Protección del Ministerio del Interior y de Justicia también es beneficiario de medidas de protección. Asimismo, el Estado informó que la Policía Nacional implementó medidas preventivas de seguridad en torno a la residencia del periodista y su familia. No obstante lo anterior, el Sr. Hollman Morris ha incumplido en varias oportunidades los compromisos debidos para su seguridad, y si bien el Estado tiene la obligación convencional y constitucional de garantizar la vida y la integridad personal del Sr. Morris, no es menos cierto que para que el Estado puede cumplir con esta obligación, se requiere que el periodista adopte responsablemente dichas conductas mínimas de seguridad que no buscan otra cosa que el beneficiario de las medidas de protección se compromete con facilitar la adecuada y efectiva prestación de este servicio por parte de las autoridades competentes.

548. Asimismo, se informó que el Director General de la Policía Nacional se comprometió a continuar ofreciendo todas las garantías de seguridad y protección a los Magistrados de las Altas Cortes.

549. Se informó que el Gobierno Nacional ha actuado con toda la diligencia para brindarle protección a todos los magistrados de las Altas Cortes.

550. De otra parte, el Ministerio de Defensa informó que luego de haber sostenido una reunión con los Magistrados de las Altas Cortes, se van a reforzar las medidas de seguridad de los magistrados entre otros.

551. Asimismo, el Presidente de la República informó acerca de la destinación de tres millones de dólares de los Estados Unidos para la protección de los Magistrados de las Altas Cortes y sus familias.

Llamamiento urgente

552. El 1 de diciembre de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. **Luz Marina Porras Bernal**, integrante de las Madres de Soacha, su hijo, el Sr. **John Smith Porras Bernal** y los demás miembros de las Madres de Soacha.

553. Las Madres de Soacha es un grupo formado por madres de los jóvenes de Soacha, Cundinamarca, que fueron ejecutados extrajudicialmente, supuestamente a manos del ejército, en enero de 2008. Las Madres de Soacha exigen justicia en los asesinatos de sus hijos. El Sr. Smith Porras Bernal ayuda a las Madres de Soacha y realiza campañas para exigir justicia y poner fin a la impunidad en este caso conocido como “los falsos positivos de Soacha”.

554. Según las informaciones recibidas, el 2 de noviembre de 2009, el Sr. Smith Porras Bernal habría recibido una carta en la que decía “así se esconda y se encierre en ese apartamento usted sale porque sale y hay te vamos a coger porque se le advirtió... si no quieres que te pase nada lárguese lo más pronto posible porque le queda muy poco tiempo no lo olvide no estamos jugando porque ya lo tenemos fichado créalo no estamos jugando...”

555. Asimismo, el 20 de octubre de 2009, el Sr. Smith Porras Bernal habría recibido otra carta amenazante en su casa que decía que, “se atuviera a las consecuencias”. Esta amenaza se referiría a otra carta amenazante enviada el 10 de octubre de 2009 en la que el autor habría advertido al Sr. Smith Porras Bernal y a las otras personas que exigen justicia en relación con las ejecuciones extrajudiciales en Soacha que deben guardar silencio, una amenaza que habría sido ignorado.

556. Cabe añadir que otras de las Madres de Soacha han sido objeto de intimidación y hostigamiento.

557. Se expresó temor que las amenazas contra el Sr. Smith Porras Bernal y la Sra. Porras Bernal y los actos de intimidación y hostigamiento contra otros miembros de las Madres de Soacha estén relacionados con las actividades que realizan en defensa de los derechos humanos, y en particular con sus esfuerzos para exigir justicia en el caso de sus hijos ejecutados extrajudicialmente. Como se mencionó en el comunicado de prensa después de la visita de la Relatora Especial sobre la situación de los defensores de los derechos humanos a Colombia en septiembre de 2009, siguen existiendo en Colombia patrones de hostigamiento y persecución contra los defensores de derechos humanos, y a menudo contra sus familiares. El Gobierno de Colombia tiene la responsabilidad de investigar de manera exhaustiva las violaciones cometidas

contra los defensores de derechos humanos y enjuiciar a sus autores. Asimismo, el Gobierno de su Excelencia debe condenar firmemente cualquier acto de agresión o intimidación contra los defensores de derechos humanos, tomando la oportunidad para reconocer la importancia de su labor.

Llamamiento urgente

558. El 5 de marzo de 2010, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con varios integrantes de la organización **Movimiento Nacional por Víctimas de Crímenes de Estado (MOVICE)**. MOVICE es un colectivo de varias organizaciones de los derechos civiles y los derechos humanos, que trabaja contra los abusos cometidos en el contexto del conflicto armado en Colombia, particularmente en la provincia de Sucre. MOVICE observa, hace pública y realiza campañas en contra de los abusos y violaciones de derechos humanos cometidos por los grupos armados y paramilitares en la región, por ejemplo las ejecuciones extrajudiciales, desapariciones forzadas y secuestros. Recientemente, varios políticos de alto nivel fueron detenidos después de que MOVICE los denunció por estar vinculados a grupos paramilitares. El 4 de febrero de 2010, varios integrantes de MOVICE entregaron una carta pública al Gobernador de la provincia de Sucre, en la cual lo acusaron de estar implicado con un grupo paramilitar.

559. Durante las últimas semanas, varios integrantes de MOVICE habrían sido objeto de amenazas de muerte y actos de hostigamiento e intimidación. En particular, se expresa preocupación por la Sra. **Ingrid Vergara**, la vocera de MOVICE, el Sr. **Juan David Díaz Chamorro**, integrante de MOVICE Sucre, y otra mujer, partidaria de MOVICE, quien desea quedar anónima por razones de seguridad.

560. La Sra. Vergara ya ha sido objeto de una comunicación de la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos el 21 abril de 2008, y de la Relatora Especial sobre la situación de los defensores de los derechos humanos el 16 de noviembre de 2009.

561. Según las informaciones recibidas, la Sra. Vergara recientemente habría sido objeto de actos de hostigamiento y habría recibido amenazas de muerte en su contra. El 31 de diciembre de 2009, aproximadamente a las 7.30 horas de la mañana, la Sra. Vergara habría recibido una llamada telefónica a su celular de un hombre no identificado, quien habría llamado desde un número privado. Antes de colgar el teléfono, le habría preguntado dónde estaba, de manera amenazante y peyorativa. Se informó que el hombre habría hablado con un acento costeño. En ese momento, la Sra. Vergara no estaba en la ciudad de Sincelejo debido a su preocupación sobre varias amenazas de muerte que ella habría recibido durante el mes de octubre de 2009.

562. El 5 de febrero de 2010, la Sra. Vergara habría sido objeto de un intento de asesinato después de asistir a una reunión en Sincelejo con la colega anónima anteriormente mencionada, una asistente social, en la cual se habrían encontrado con varias otras colegas de MOVICE. Las dos mujeres tendrían un aspecto físico similar y el día en cuestión habrían vestido ropa similar. Mientras la colega de Ingrid Vergara regresaba a su hogar en un taxi motocicleta después de la reunión, habría sido seguida por dos hombres con los rostros cubiertos en una motocicleta verde Yamaha Victoria sin placas. Aproximadamente a las 8.10 horas de la tarde, al llegar al sitio

llamado Sheek situado en la calle Majagual, la motocicleta con los dos hombres habría acercado al taxi y el pasajero ubicado en el asiento trasero le habría apuntado directamente con una pistola. Según las informaciones recibidas, este hombre habría llevado un jersey amarillo y unos pantalones vaqueros. Al comprender que la mujer en la motocicleta no era la Sra. Vergara, el hombre habría retirado la pistola y el conductor de la motocicleta se habría alejado. Se cree que la Sra. Vergara era el supuesto objetivo del intento de asesinato.

563. El 6 de febrero de 2010, Ingrid Vergara habría presentado una queja formal sobre la tentativa de asesinato ante la policía de Sincelejo. Un policía con apellido Acosta le habría informado que sólo dos motocicletas de esta descripción habrían sido registradas en la ciudad de Sincelejo, y que una de ellas pertenecería a un agente de la policía.

564. El Sr. Juan David Díaz Chamorro también habría sido objeto de varios incidentes de hostigamiento. El 18 de enero de 2010, su tía – la hermana de la ex-alcalde de El Roble, el Sr. Eudaldo Díaz, quien fue asesinado - habría recibido un correo electrónico con amenazas. El correo habría dicho, “se los advertimos los vamos a acabar a todos. De nosotros nadie se burla, pronto les daremos la primera sorpresa”. Durante el mes de noviembre de 2009, el Sr. Díaz Chamorro habría recibido un correo electrónico con amenazas en relación con sus críticas al ex-Gobernador, el Sr. Salvador Arana.

565. Se teme que esta amenaza y los actos de hostigamiento contra la Sra. Vergara, el Sr. Díaz Chamorro y su colega estén relacionados con las actividades que ellos realizan en defensa de los derechos humanos y, en particular, con su trabajo de denunciar violaciones de derechos humanos cometidas por miembros de grupos paramilitares en la región. En vista de las informaciones aquí resumidas, se expresa profunda preocupación por la integridad física y psicológica de los defensores de los derechos humanos anteriormente mencionados. Quiero reiterar que, si bien reconozco los esfuerzos del Gobierno para mejorar la situación de los defensores de derechos humanos, aún queda mucho por hacer para garantizar un entorno seguro y propicio para los defensores de derechos humanos en Colombia. Aunque la Sra. Vergara y el Sr. Díaz Chamorro permanecen bajo medidas cautelares de la Corte Interamericana de Derechos Humanos, las amenazas en contra de sus vidas e integridad continúan. El Gobierno de Su Excelencia tiene la responsabilidad de denunciar e investigar de manera exhaustiva las violaciones cometidas contra los defensores de derechos humanos y enjuiciar a sus autores.

Observaciones

566. El Relator Especial agradece las respuestas detalladas que el Gobierno de Colombia ha proporcionado en relación con las comunicaciones enviadas y expresa su satisfacción por el hecho de que se hayan iniciado investigaciones y procesos de protección en varios de los casos. De otro lado, la Relatora Especial lamenta que al momento de la finalización del presente informe no había recibido respuesta a varias comunicaciones. El Relator Especial considera que al responder a las comunicaciones representa un elemento fundamental para la cooperación de los Estados con el mandato, es por ello que insta al gobierno colombiano a que le proporcione una respuesta tratando los asuntos mencionados.

Congo (Republic of the)

Lettre d'allégations

567. Le 27 mars 2009, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, a envoyé une lettre d'allégations concernant la mort de M. **Bruno Ossebi**, journaliste de nationalité française et congolaise, qui travaillait pour le journal Mwindi. Selon les informations reçues:

568. Le soir du 21 janvier 2009, un incendie aurait eu lieu dans la maison de M. Bruno Ossebi qui aurait provoqué la mort de sa compagne et de ses enfants âgés de 8 et 10 ans. M. Bruno Ossebi aurait été transféré à l'hôpital militaire avec des brûlures au second degré sur 30 pour cent de son corps. Il serait décédé le 1 février 2009, malgré des améliorations antérieures de son état de santé, et ce le jour précédant son évacuation médicale vers la France.

569. L'incendie du 21 janvier 2009 aurait été précédé de la publication d'un article par M. Bruno Ossebi dans le journal Mwindi, alléguant des cas de corruption au sein du Gouvernement, en particulier le Président Denis Sassou-Nguesso. L'article contenait un entretien avec M. Benjamin Toungamani, dissident politique en exil. Il est aussi rapporté que le même soir du 21 janvier 2009, un autre incendie aurait été enregistré à la maison de M. Benjamin Toungamani, sans avoir causé de blessures. Le Bureau de Procureur aurait ouvert une investigation, néanmoins sans résultat à ce jour.

570. En outre, il est rapporté que MM. Bruno Ossebi et Benjamin Toungamani planifiaient de porter plainte en France contre le Président Denis Sassou-Nguesso ainsi que contre les Présidents de pays voisins, la Guinée Equatoriale et le Gabon.

571. Des craintes sont exprimées quant au fait que les décès de M. Bruno Ossebi, de sa femme et de ses deux enfants soient liés aux activités non-violentes de celui-ci en matière de promotion et protection des droits de l'homme, notamment dans l'exercice de son droit à la liberté d'opinion et d'expression.

Observations

572. Le Rapporteur spéciale regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 27 mars 2009. Il exhorte le Gouvernement à répondre au plus vite aux très sérieuses craintes exprimées dans celle-ci, notamment en fournissant des informations précises sur les enquêtes menées afin de traduire en justice les auteurs des faits. Il considère les réponses à ses communications comme partie intégrante de la coopération des gouvernements avec son mandat.

Cuba

Llamamiento urgente

573. El 2 de febrero de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con los actos de acoso y las amenazas contra los Sres. **Juan Carlos González Leiva**, abogado invidente y el

Director Ejecutivo del Consejo de Relatores de Derechos Humanos de Cuba (CRDHC), **Sergio Díaz Larrastegui**, integrante del CRDHC, **Julio Romero Muñoz**, coordinador del Movimiento Solidario Expresión Libre (MOSEL) en la ciudad de Camagüey, y **Alejandro García Cruz**, vice-coordinador del Comité Ciudadano Contra los Malos Tratos del MOSEL.

574. El CRDHC tiene como objetivo el monitoreo y seguimiento de la situación de derechos humanos en Cuba. El Sr. González Leiva ha sido ya objeto de comunicaciones de la Representante Especial sobre la situación de los defensores de derechos humanos que envió cartas el 1 de febrero de 2007 y el 8 de diciembre de 2006. Ninguna respuesta fue recibida por la Representante Especial.

575. El MOSEL tiene como objetivo lograr la transformación de las leyes del país para bien de la dignidad de cada ciudadano cubano. El CRDHC y el Comité Contra los Malos Tratos del MOSEL han transmitido informes sobre la situación de derechos humanos en Cuba al proceso del Examen Periódico Universal (EPU) de las Naciones Unidas sobre Cuba que se realizará el próximo 5 de febrero de 2009. Ambos grupos han notado un patrón de represalias en el contexto de sus sumisiones al EPU.

576. Según la nueva información recibida, en horas de la mañana del 21 de enero de 2009, el Sr. González Leiva habría recibido cinco mensajes amenazadores e injuriosos desde oficinas de comunicaciones del Gobierno y llamadas que habrían marcado números desde el centro ETECSA, controlado por la Seguridad del Estado y a través del teléfono móvil.

577. Durante 2008, previa y posteriormente a la preparación y el envío del informe sobre los derechos humanos al Comité que se encarga del procedimiento del Examen Periódico Universal, las autoridades cubanas habrían intensificado la represión contra el CRDHC. El 1 de noviembre del 2008, el CRDHC habría sido desalojado de la vivienda donde funcionaba su oficina desde hace 16 meses, como resultado de las presiones de Seguridad del Estado a la dueña de dicha oficina.

578. El CRDHC encontró otra vivienda pero les cortaron totalmente la línea telefónica. Seguridad del Estado habría acosado a su propietario, el invidente Sr. Díaz Larrastegui. El 9 de enero de 2009, habría sido expulsado de su centro de trabajo en la Corporación de Informática COPEXTEL, donde se desempeñaba como especialista en gestión de la información. La Seguridad del Estado le habría retirado la computadora imprescindible, no sólo para su trabajo, sino para el desempeño de su vida personal y la superación social de su discapacidad física.

579. En diciembre de 2008, oficiales de Villa Marista, sede nacional de Seguridad del Estado, habrían amenazado al Sr. Díaz Larrastegui. La Seguridad del Estado habría reunido a los vecinos y habría instrumentado una pesquisa casa por casa para expulsar el CRDHC, para lo cual habría dado de plazo hasta el día 1 de febrero de 2009.

580. El Sr. Sergio Díaz Larrastegui habría recibido llamadas telefónicas de la policía política que lo habría aterrorizado, le habría exigido que coopere con ellos, que le brinde todo tipo de información y que permita la instalación de cámaras y videos dentro de la vivienda. Otros miembros del CRDHC habrían sido seguidos por oficiales de Seguridad del Estado y les habrían hecho saber que la vivienda se encuentra bajo vigilancia y control día y noche.

581. En los últimos meses, el CRDHC habría sufrido además la quema de los equipos de grabación y la introducción de virus en sus computadoras,

582. En relación con el acoso contra el MOSEL, el 21 de septiembre de 2008, a las 14.00 horas, el Sr. García Cruz, habría sido visitado en su vivienda por un capitán local de la policía quien le habría amenazado. El día 9 de diciembre, el Sr. García Cruz habría sido detenido en la vía pública, se le habrían retirado los documentos de identidad para obligarle a comparecer a la Segunda Unidad de la Policía Nacional.

583. Se expresó temor que estos actos de acoso y hostigamiento contra los Sres. Juan Carlos González Leiva, Sergio Díaz Larrastegui, Julio Romero Muñoz y Alejandro García Cruz podrían estar relacionados con sus trabajos legítimos en defensa de los derechos humanos en Cuba, y específicamente por su participación en el proceso del Examen Periódico Universal. En vista de lo aquí resumido, se expresó preocupación por la integridad física y psicológica de los Sres. Juan Carlos González Leiva, Sergio Díaz Larrastegui, Julio Romero Muñoz y Alejandro García Cruz.

Respuesta del Gobierno

584. En una carta fechada el 4 de marzo de 2009 el Gobierno respondió al llamamiento urgente. Según la carta las alegaciones presentadas carecen totalmente de fundamento. Se informó que, en Cuba, el Estado es el garante de la promoción y protección de todos los derechos humanos para todos los ciudadanos, y ninguna persona es acosada, amenazada u hostigada por razones relacionada con el disfrute de sus derechos humanos.

585. Se expresó la preocupación de Cuba por el uso del idioma español en el texto del llamamiento. El Gobierno pidió que se tome mayor cuidado en la elaboración de este tipo de llamamientos.

586. Se informó que las personas a las que se refiere el llamamiento no son defensores de derechos humanos y que todos están incluidos en la nómina de asalariados del Gobierno de Estados Unidos en la ejecución de su política de hostilidad, bloqueo y agresiones contra el Gobierno Cubano.

587. Asimismo, se señaló que ninguna de las organizaciones mencionadas opera en Cuba en actividades de defensa de derechos humanos. Todos los objetivos descritos con relación a las mismas fueron copiados de los estatutos de varias de las más de 2200 organizaciones no gubernamentales que defienden los derechos humanos en Cuba.

588. Se informó que todas las alegaciones fueron investigadas, una por una, que todas son falsas y fabricadas con el menor pudor y ética y que ninguna corresponde con ningún hecho ocurrido.

589. Se informó también que las autoridades en Cuba no amenazan telefónicamente, ni reprimen, desalojan de sus viviendas, cortan líneas telefónicas, expulsan de centros de trabajos, confiscan computadoras, amenazan de cualquier otro modo, someten a vigilancia diurna y nocturna viviendas, queman equipos de grabación, introducen virus a computadoras; tampoco retiran documentos e identidad de modo arbitrario a ciudadano alguno.

590. En Cuba la Ley se respeta y se aplica de modo escrito. Nadie queda sujeto a modo alguno de acoso, amenaza u hostilidad.

591. Cuba confirmó la voluntad de seguir cooperando con sus labores y por tanto, aun cuando como en este caso, se trate de burdas fabricaciones, no dudaremos en responder.

Llamamiento urgente

592. El 3 de abril de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con actos de hostigamiento contra mujeres miembros del colectivo conocido como **Las Damas de Blanco**, inclusive la detención temporal de tres de ellas, las Sras. **Maritza Castro, Ivonne Mayesa Galano y Neris Castillo** además de las amenazas contra la Sra. **Ariana Montoya Aguilar**.

593. Las Damas de Blanco es una organización de familiares de disidentes políticos encarcelados. Las Damas de Blanco organizan marchas pacíficas en las que reparten flores y piden la liberación de sus familiares y amigos aún en prisión. En 2005, este grupo recibió el Premio Sajarov a la Libertad de Conciencia, otorgado por el Parlamento Europeo.

594. Las Damas de Blanco ya fue sujeto de varias comunicaciones de la Relatora Especial sobre la situación de los defensores de derechos humanos que envió cartas al Gobierno de Cuba el 7 de abril de 2008, el 19 de mayo 2008 y el 8 de julio de 2008. La Relatora Especial agradeció las respuestas proporcionada por el Gobierno de Cuba fechada el 16 de mayo de 2008, el 22 de mayo de 2008 y el 22 de julio de 2008.

595. Según la información recibida, el 10 de marzo de 2009, la Sra. Ivonne Mallesa habría sido detenida brevemente por el Departamento de Seguridad del Estado (DSE) cubano, tras haber sido detenida anteriormente y liberada dos días antes.

596. El 8 de marzo de 2009, agentes del DSE habrían tratado de impedir la participación de varios miembros de las Damas de Blanco en un evento con motivo del Día Internacional de la Mujer. Habrían sido arrestadas las Sras. Maritza Castro, Ivonne Mayesa Gallano y Neris Castillo, mientras que a otras Damas, se les habría impedido salir de su vivienda para dirigirse al mencionado evento.

597. Según las denuncias, anteriormente, el 19 de febrero 2009, hacia las 15h30, las Sras. Maritza Castro e Ivonne Mayesa Galano habrían sido detenidas cuando se habrían encontrada en la Calzada de Buenos Aires en San Julio y Durege, en el municipio Cerro de La Habana. Habrían sido conducidas luego a la Cuarta Unidad policial del municipio capitalino de Cerro, en donde habrían sido sometidas a tres horas de intenso interrogatorio por agentes de la Sección 21 del DSE.

598. Las Sras. Maritza Castro e Ivonne Mayesa Galano habrían sido interrogadas en particular por el hecho que ellas habrían formado parte, junto a otros miembros de las Damas de Blanco, del grupo que acompañó a la Sra. Noelia Peraza Jiménez durante la noche del 18 de febrero de 2009, frente al Hospital Militar "Carlos J. Finlay" en la Habana, con el fin de expresar su solidaridad con su marido, el prisionero de conciencia Sr. Sigler Amaya, quien habría llevado

cinco meses ingresado en dicho hospital. Las Damas de Blanco habrían reclamado además la entrega del diagnóstico médico sobre el activista preso. Después de este hecho, las Sras. Maritza Castro e Ivonne Mayesa Galano habrían sido subidas por la fuerza a un autobús y habrían recibido golpes y empujones de los agentes, quienes luego las habrían conducido a sus casas. En esa ocasión habrían sido advertidas por oficiales de la Seguridad del Estado de que no participen en ninguna actividad durante la semana del 16 de marzo 2009.

599. El 10 de febrero de 2009, la Sra. Ariana Montoya Aguilar, también miembro de las Damas de Blanco, habría sido visitada por un agente del DSE en su casa, en el Barrio Vedado de la Habana y éste habría procedido a prohibirle terminantemente que acudiera a la Iglesia de Santa Rita de Casia, uno de los lugares en donde se reúnen habitualmente las Damas de Blanco.

600. En visto de lo aquí resumida se expresó temor que el hostigamiento contra las Sras. Maritza Castro, Ivonne Mayesa Galano y Neris Castillo y las amenazas contra la Sra. Ariana Montoya Aguilar podrían estar relacionados con sus actividades en defensa de los derechos humanos, en particular, su ejercicio pacífico del derecho a la libertad de expresión. Asimismo, se expresó preocupación por la integridad física y psicológica de las Sras. Maritza Castro, Ivonne Mayesa Galano, Neris Castillo y Ariana Montoya Aguilar y de las mujeres miembros de las Damas de Blanco.

Respuesta del Gobierno

601. En una carta fechada el 3 de noviembre de 2009 el Gobierno respondió al llamamiento urgente e informó que las alegaciones incluidas en la comunicación son falsas.

602. Según la carta, resultan falsas las alegaciones que la Sra. López Baéz habría sido sometida a un proceso por “peligrosidad social pre delictiva” y que habría sido objeto de tres interpretaciones ante las autoridades cubanas durante mayo de 2009.

603. Se señaló que la Sra. López Baéz no ha sido objeto de detención alguna y tampoco se encuentra sujeta a un proceso por Estado Peligroso.

604. Según la carta la Sra. López Baéz y su hijo están desempleados y se dedican al comercio ilegal de prendas de vestir.

605. Se informó que en febrero de 2009, con el propósito de obtener financiamiento y supuesta protección ante las consecuencias de sus actividades ilícitas, la Sra. López Baéz estableció relaciones con el “Centro de Información Hablemos PRESS”.

606. Según la carta, el Centro de Información Hablemos PESS es una agrupación extranjera que viola elementales derechos del pueblo cubano. No constituye una organización no gubernamental que actúe en defensa de los derechos humanos; por otro lado, atenta contra los derechos del pueblo cubano.

607. Asimismo, se expresó la opinión de que la Sra. López Baéz y el Centro de información Hablemos PRESS no califican en el concepto de defensores de derechos humanos según establece el texto de la Declaración sobre los Defensores de derechos humanos.

608. Se reiteró que en Cuba ninguna persona es detenida o sancionada por el disfrute de los derechos y que en Cuba la libertad de opinión alcanza su más plena realización. Además, se reiteró que en Cuba, por mandato constitucional, se respetan y protegen todos los derechos humanos y libertades fundamentales de todos sus ciudadanos sin distinción de ninguna especie.

609. Cuba expresó su esperanza de que el llamamiento sea descontinuado.

Llamamiento urgente

610. El 3 de febrero de 2010, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **Juan Carlos González Leiva**. El Sr. González Leiva es abogado y el Secretario Ejecutivo del Consejo de Relatores de Derechos Humanos, una organización cubana que funciona como una red de casi 500 monitores y monitoras de los derechos humanos. Los integrantes informan, documentan y hacen públicas las violaciones y abusos, incluyendo los asesinatos y desapariciones, tanto de los ciudadanos como de los defensores de derechos humanos en Cuba. El Consejo incluye casi 70 organizaciones además de varios presos políticos en alrededor de 50 de las 250 cárceles que se creen existen en Cuba. El Sr. González Leiva ha sido objeto de comunicaciones enviadas por el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y la Relatora Especial sobre la situación de los defensores de los derechos humanos el 2 de febrero de 2009 y el 1 de febrero de 2007; y por la entonces Relatora Especial sobre la situación de los defensores de los derechos humanos el 8 de diciembre de 2006.

611. Según las informaciones recibidas, hace algunos meses el Sr. González Leiva y sus familiares habrían sido sujetos a intimidación, hostigamiento y amenazas como resultado de su labor para documentar y hacer público las violaciones de los derechos humanos en Cuba. El 20 de enero de 2010 por la tarde, agentes estatales de seguridad se habrían presentado al hogar de Sr. González Leiva y de su esposa, la Sra. Tania Maceda Guerra, una periodista y defensora de los derechos humanos, con el fin de obligarlos a dejar su hogar en La Habana y trasladarlos a Ciego de Ávila, la provincia natal del Sr. González Leiva. Las autoridades habrían declarado que la pareja está en la capital ilegalmente; por ya que según la ley conocida como Decreto 217, los cubanos originarios de otras partes del país, necesitan un permiso oficial para vivir en la ciudad de La Habana. El Sr. González Leiva se habría trasladado a La Habana en 2007 con su esposa, y desde entonces se habrían alojado en la casa del Sr. Sergio Díaz Larrastegui, un compañero. El Sr. Díaz Larrastegui es sordo y el Sr. González Leiva es ciego; el Sr. González Leiva habría sido permitido a vivir con el Sr. Díaz Larrastegui de acuerdo con la legislación sobre discapacidad.

612. El 20 de enero de 2010, el Sr. González Leiva y su esposa habrían resistido el desalojo y como resultado de las amenazas habrían decidido no salir del hogar. Hasta la fecha habrían estado encerrados en el edificio, y habrían dependido de amigos y compañeros para llevarles comida y otras provisiones necesarias mientras habrían continuado su trabajo con la documentación de las violaciones de derechos humanos, en particular para compilar un informe de las violaciones que habrían ocurrido en Cuba durante el año de 2009.

613. En noviembre de 2009, las autoridades se habrían negado a renovar el permiso del Sr. González Leiva para quedar en su domicilio en La Habana. Esta negación supuestamente habría sido ordenada por agentes de seguridad del estado. Se cree que el esfuerzo para llevar el Sr. González Leiva y su esposa a Ciego de Ávila podría ser un método para aislarles y limitar su acceso al internet, a la prensa y a las misiones diplomáticas en La Habana.

614. Las amenazas contra el Sr. González Leiva y su esposa habrían seguido al despido del Sr. Díaz Larrastegui de su puesto el 12 de enero de 2010. Se informó que el 11 de enero de 2010, un agente de seguridad se habría dirigido al domicilio de los antedichos defensores de los derechos humanos, dónde se habría situado frente a la puerta del hogar con un perro pastor alemán grande. Esta tarde, el Sr. Díaz Larrastegui habría recibido una orden para presentarse ante la policía política y ante el jefe de la Unidad Policial ubicada en la Calle Municipio, 10 de octubre, en La Habana. El día siguiente, agentes de seguridad habrían confiscado su ordenador personal y le habrían amenazado con encarcelamiento, luego de que el se negara a permitir la instalación de cámaras de vigilancia en su hogar. Se informó, además, que el Sr. Díaz Larrastegui habría estado bajo presión para informar sobre visitantes de su domicilio.

615. Estos incidentes fueron acompañados por varios actos de hostigamiento e intimidación, incluyendo las amenazas de muerte, la repudiación pública y la vigilancia de sus movimientos. Además, agentes de seguridad habrían visitado su domicilio en varias ocasiones y la cuenta de correo electrónico del Consejo de Relatores de Derechos Humanos habría sido interceptada y cerrada. Se informó que el Sr. González Leiva habría recibido cinco mensajes amenazantes por celular, supuestamente enviados por parte de las oficinas de comunicaciones estatales. Uno de las mensajes habría dicho, "...ves que fácil es llegar a Uds...es solo cuestión de apretar un botón...estíercol, viva Fidel!...váyanse del país, el pueblo los desprecia por su servilismo...el primer derecho de la revolución es el de existir y contra éste los derechos de sus enemigos no valen nada...".

616. Se teme que las amenazas en contra de Juan Carlos González Leiva y sus familiares y compañeros estén relacionado con las actividades que ellos realizan para promover y defender los derechos de la gente de Cuba. Se expresa una profunda preocupación por la integridad física y psicológica de todos los defensores y defensoras de los derechos humanos en Cuba. Estos actos de intimidación, de ser confirmados, se enmarcan en un contexto de gran vulnerabilidad para los defensores de los derechos humanos en Cuba.

Respuesta del Gobierno

617. En una carta fechada el 5 de abril de 2010, el Gobierno respondió al llamamiento urgente tal como sigue.

618. Son totalmente falsas las alegaciones incluidas en la comunicación que nos fuera remitida sobre supuestos actos de hostigamiento, intimidación, amenazas o agresiones al Sr. Gonzáles Leiva por parte de autoridades o individuos cubanos.

619. Cuba rechaza las alegaciones incluidas en la comunicación escrita, informando que Juan Carlos Gonzáles Leiva no ha sido objeto de violaciones a sus derechos humanos y que su vida no corren peligro.

620. Es falso que este individuo haya sido objeto de repudio, desalojo y traslado a su provincia natal, que contra él no se ha intentado instalar cámaras de vigilancia, ni se le ha interceptado ni cerrado ninguna cuenta de correo electrónico, no se le ha ocupado ningún medio de cómputo, ni se le han enviado por autoridades cubanas mensajes amenazantes a su celular.

621. Es necesario aclarar y recordar que Gonzáles Leiva fue en el pasado responsable de actos graves de violaciones del orden público y obstrucción de servicios médicos en instalaciones hospitalarias de Cuba. Por los delitos de desorden público, resistencia y desacato, debidamente tipificados en la legislación nacional, dicho ciudadano fue condenado a 4 años de arresto domiciliario; esto último atendiendo a su condición de discapacitado físico. Cuba remitió abundante información al respecto a los mecanismos pertinentes de la entonces Comisión de Derechos Humanos que la solicitaron.

622. El Sr. Gonzáles Leiva, a quien se pretende utilizar con el objetivo de desacreditar la obra de la Revolución Cubana, es, por el contrario, una prueba fehaciente de que el beneficio de las realizaciones y la bondades empezó a recibir a la edad de 22 años una pensión vitalicia por parte del sistema público de seguridad y de asistencia social, que cubre de manera universal a todos los cubanos, al ser beneficiado por las conclusiones de un peritaje médico en virtud de sus limitaciones visuales y a pensar del reducido periodo de tiempo en que había laborado.

623. Posteriormente, y de manera absolutamente gratuita, se le facilitó la realización de estudios por el sistema Braille, en la Ciudad de la Habana, y se le permitió llevar a cabo los estudios de Licenciatura en Derecho en la Universidad de Ciego de Ávila y después en la Universidad de La Habana, también de manera absolutamente gratuita.

624. Sin embargo, a pesar de todos los beneficios recibidos como ciudadano cubano, el Sr. Gonzáles Leiva ha actuado como mercenario de la Sección de Intereses de los Estados Unidos (SINA) en la Habana. En su papel de agente del gobierno norteamericano, tras asentarse en la Capital desde el año 2007, ha incrementado sus vínculos con la SINA, con algunas organizaciones contrarrevolucionarias radicadas en el Exterior que actúan contra Cuba, con funcionarios diplomáticos extranjeros y con la prensa sistema político, económico y social y contra el orden constitucional libremente elegido por el pueblo cubano en el ejercicio de su derecho a la libre determinación.

625. Los mercenarios reclutados en la isla por el gobierno de los Estados Unidos, carecen de una base social autóctona y de un proyecto independiente, es por ello que personas como Gonzáles Leiva se prestan para utilizados como parte de la política de dominación y agresión contra Cuba, por lo que reciben los beneficios económicos resultado del financiamiento dedicado a fabricar la supuesta “disidencia interna”. Como parte del paquete de financiamiento Gonzáles Leiva recibe además computadoras, fotocopadoras, radios, equipos de video cassette, DVD e impresoras con el propósito de distribuir propaganda subversiva en función de los intereses de una potencia extranjera.

626. Respecto a la falsa medida de desalojo adoptada contra Gonzáles Leiva y su esposa, procedentes de Ciego de Ávila, desde el año 2007 comenzaron a residir de manera ilegal en la vivienda de propiedad de Sergio Díaz Larrastegui en la Ciudad de la Habana, sin realizar los trámites legales para adquirir la residencia temporal o transitoria, establecido en el Decreto Ley 217 complementario de la Ley General de la Vivienda.

627. Ante tal ilegalidad, en el 2008 funcionarios del Carne de Identidad y el Registro de Población (CIRP), citaron oficialmente a Díaz Larrastegui para informarle sobre las violaciones en que estaba incurriendo; lo que motivó que Gonzáles Leiva efectuara el trámite legal de solicitud, otorgándosele en el 2009 un permiso temporal de residencia por seis meses, que no renovó una vez vencido el plazo.

628. Sobre la base de la reiteración de la ilegalidad, funcionarios del CIRP, nuevamente informaron sobre la situación a Díaz Larrastegui, en fecha 13 de enero de 2010, imponiéndolo de la posibilidad de ser multado con \$500.00 o \$1000.00 pesos en moneda nacional, según establece la Ley, sin que fuera objeto de maltrato alguno.

629. Por otra parte, sobre los hechos o violaciones imputados en el texto del llamamiento urgente, no se presentaron por parte de los individuos implicados ni quejas ni denuncias en ninguna institución cubana, donde de conformidad con el artículo 63 de la constitución cubana, cualquier ciudadano puede ejercer su derecho a dirigir quejas, a saber: en los Departamentos de Control de la Legalidad y Protección de los Derechos Ciudadanos, existentes en todas las instancias de la Fiscalía General de la República; Dirección de Atención a la Población del Concejo de Estado y Departamentos de Atención a la Ciudadanía del Ministerio del Interior.

630. Juan Carlos Gonzáles Leiva no es en lo absoluto un defensor de derechos humanos y no ha sido sancionado como consecuencia del disfrute del derecho a su libertad de opinión y de expresión.

Observaciones

631. El Relator Especial agradece las respuestas detalladas que el Gobierno de Cuba ha proporcionado. Asimismo, la Relatora Especial insta al Gobierno a que elabore informaciones adicionales y resultados concretos de las investigaciones mencionadas en las respuestas recibidas, incluyendo las medidas que se hayan impuesto para sancionar a los responsables y para proteger a los defensores de los derechos humanos y sus familiares.

Democratic People's Republic of Korea

Urgent appeal

632. On 2 April 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, and the Special Rapporteur on violence against women, its causes and consequences, send an urgent appeal to the Government in relation to U.S citizens **Ms Laura Ling and Ms Euna Lee**, journalists with the San Francisco based online television station Current TV.

633. According to information received, on 17 March 2009, Ms Ling, Ms Lee and their cameraman Mr Mitch Koss were arrested by North Korean authorities on the border between North Korea and China. They were on a reporting assignment to investigate the alleged

trafficking and sale of women from North Korea into China. It is not clear whether Ms Ling and Ms Lee were arrested on North Korean territory. Several sources suggest that North Korean border guards may have crossed the Tumen river (that forms the border) while they were filming on the Chinese bank.

634. Ms Ling and Ms Lee are currently being held in Pyongyang on charges of entering North Korea “illegally” and of carrying out “hostile activities”. If convicted they face a sentence of up to 10 years of forced labour. A Swedish diplomat has been allowed to visit them in Pyongyang. Mr Koss, who managed to escape from the North Korean border guards, was detained for several days by Chinese authorities before being deported. Their guide, a Chinese citizen of North Korean origin, is reportedly still being detained by the Chinese police.

635. Concern was expressed that the arrest and detention of Ms Lee and Ms Ling may be linked to their activities in defence of human rights, in particular their investigative reporting into the alleged trafficking and sale of women between the North Korean and Chinese borders. Further concern was expressed that the actions taken by the authorities may represent a direct attempt to prevent independent reporting in North Korea, thus stifling freedom of expression in the country.

Response from the Government

636. In a letter dated 8 April 2009, the Government responded to the communication sent on 2 April 2009. In its response the Government noted that it did not feel any need to respond to such communications as they attempt to impertinently instruct a sovereign state to do this or that based on distorted information.

637. Furthermore, the Government informed that, as already known, two American reporters were detained on 17 March 2009, as a result of their illegal entry into DPRK territory by crossing the DPRK-China border and hostile acts.

638. While the investigation is underway, consular contact is allowed and treatment is given in accordance with relevant international laws. The Government also enclosed copies of the reports of the Korean Central News Agency on this matter.

Observations

639. The Special Rapporteur wishes to thank the Government for its response to his communication. In this connection, he wishes to reiterate that in accordance with the provisions of the Code of Conduct (Human Rights Council resolution 5/2), Special Procedures mandate holders are entitled to send communications on individual cases falling within the scope of their respective mandates, and this should by no means be viewed as instructing a sovereign State.

Democratic Republic of the Congo

Lettre d'allégations

640. Le 19 mars 2009, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, a envoyé une lettre d'allégations sur la situation de MM. **Floribert Chebeya Bahizire**, Directeur Exécutif de la Voix des Sans Voix pour les Droits de l'Homme (VSV) et Secrétaire Exécutif National du Réseau National des ONGs des

Droits de l'Homme de la République Démocratique du Congo (RENADHOC), **Dolly Ibefo Mbfunga**, Directeur Exécutif Adjoint de la VSV, **Donat Tshikaya**, Chargé de réception au RENADHOC, et **Coco Tanda**, caméraman pour Canal Numérique Télévision (CNTV). M. Chebeya Bahizire a fait l'objet de deux appels urgents envoyés par l'ancienne Représentante Spéciale du Secrétaire Général sur la situation des défenseurs des droits de l'homme le 16 juillet 2004 et le 14 août 2006.

641. Selon les informations reçues, le 15 mars 2009, à la suite d'une conférence de presse sur les actuelles tensions interinstitutionnelles en République démocratique du Congo qui s'est tenue au siège du RENADHOC, dans la commune de Barumbu, MM. Floribert Chebeya Bahizire, Dolly Ibefo Mbfunga, Donat Tshikaya et Coco Tanda auraient été arrêtés par un groupe d'agents armés de la police nationale congolaise. Ils auraient ensuite été conduits au siège de l'Agence nationale des renseignements (ANR). Ils seraient présentement détenus à la prison de Kin Mazière. Du matériel informatique et de bureau, ainsi qu'une caméra de la chaîne privée Canal Congo TV, auraient été saisis par les forces de l'ordre.

642. L'objectif de cette conférence de presse était notamment d'annoncer une marche pacifique et un rassemblement devant le Palais du Peuple que la Synergie des ONGs de la Société Civile de la RDC avait prévu d'organiser le lundi 16 mars 2009, en vue de remettre un mémorandum aux Présidents du Sénat et de l'Assemblée nationale « pour la sauvegarde de la démocratie en RDC ».

643. De sérieuses préoccupations ont été exprimées quant au fait que l'arrestation et la détention de MM. Floribert Chebeya Bahizire, Dolly Ibefo Mbfunga, Donat Tshikaya et Coco Tanda soient liées à leurs activités non-violentes de promotion et protection des droits de l'homme.

Appel urgent

644. Le 29 juillet 2009, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire et le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants, a envoyé un appel urgent sur la situation de M. **Golden Misabiko**, Président de l'Association africaine pour la défense des droits de l'Homme (ASADHO)/Katanga. M. Misabiko a fait l'objet de communications envoyées respectivement le 7 janvier 2005, le 24 mai 2005 et le 6 juin 2005. Aucune réponse à ces trois communications n'a été reçue à ce jour.

645. Selon les informations reçues, le 24 juillet 2009, suite à une convocation, M. Misabiko et M. Thimothée Mbuya, Vice-Président de l'ASADHO/Katanga, se seraient rendus en début d'après-midi à la direction provinciale de l'Agence nationale des renseignements (ANR) à Lubumbashi où ils auraient été interrogés sur la publication d'un rapport publié le 13 juillet 2009 par l'ASADHO/Katanga intitulé : « Mine uranifère de Shinkolobwe: de l'exploitation illicite artisanale à l'accord entre la RD Congo et le groupe nucléaire français AREVA ». Dans ce rapport, l'ASADHO/Katanga dénonçait la poursuite clandestine de l'exploitation de la mine uranifère de Shinkolobwe, suite à sa fermeture officielle par décret présidentiel n° 04/17 du 27 janvier 2004 portant classement de Shinkolobwe comme zone interdite à l'activité minière. Selon l'ASADHO/Katanga, les exploitants bénéficieraient de la complicité de membres des Forces armées de la RDC, de la Police nationale congolaise et de l'Auditorat militaire. Le 22 juillet, les

autorités provinciales civiles et militaires auraient dépêché à Shinkolobwe une mission de vérification des allégations de l'ASADHO-Katanga, à laquelle l'ASADHO-Katanga aurait refusé de participer au motif que les militaires impliqués dans l'exploitation illicite auraient reçu l'ordre de quitter les lieux avant l'arrivée de la délégation.

646. M. Mbuya aurait été libéré le 24 juillet en début de soirée et M. Misabiko aurait passé la nuit dans le cachot de l'ANR. Le 25 juillet, M. Misabiko aurait été transféré vers le Parquet du Tribunal de grande instance (TGI) de Lubumbashi et serait depuis détenu au dépôt du TGI. M. Misabiko serait accusé d'« atteinte à la sûreté de l'Etat », de « diffamation » et de « mouvement subversif ». Le 28 juillet, M. Misabiko aurait été présenté en chambre du Conseil pour régulariser sa détention conformément à la procédure pénale congolaise. Le Ministère public aurait sollicité la prorogation de la détention arguant qu'il attendait que l'ANR régularise le PV d'audition car celui-ci serait entaché d'irrégularités (sans identité, ni signature de l'Officier de police judiciaire instructeur) et que le rapport de l'ASADHO/Katanga lui soit transmis. Les avocats de M. Misabiko auraient invoqué l'irrégularité de la détention et ainsi introduit une requête de mise en liberté provisoire. Le délibéré sur cette question devrait être rendu le 29 juillet 2009.

647. De sérieuses craintes ont été exprimées quant au fait que l'audition de MM. Misabiko et Mbuya et la subséquente détention préventive de M. Misabiko soient liées à leurs activités de défense des droits de l'homme, et ce dans l'exercice de leur droit à la liberté d'opinion et d'expression. De sérieuses craintes ont également été exprimées pour l'intégrité physique et mentale de M. Misabiko durant sa détention, notamment à la lumière de précédents actes de torture et de mauvais traitements qu'il avait subis lors de sa détention par l'ANR en 2001. M. Misabiko s'était par la suite rendu en Suède où il avait reçu de longs traitements médicaux pour les blessures infligées en détention.

Lettre d'allégations

648. Le 14 août 2009, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, a envoyé une lettre d'allégations concernant la situation de MM. **Dismas Kitenge**, président du Groupe Lotus et vice-président de la FIDH, **Floribert Chebeya**, président de la Voix des sans voix (VSV), **Timothé Mbuya**, vice-président de la section de l'ASADHO dans la province du Katanga, **Jean-Marie Kabanga**, membre du Groupe d'action non violente évangélique et **Elie Kadima**, membre du Mouvement pour les droits de l'Homme et la réconciliation et XX, journaliste de radio Okapi.

649. Selon les informations reçues, le 7 août 2009, une manifestation rapportée comme pacifique et organisée par un collectif de 17 organisations de la société civile congolaise se serait tenue devant le Gouvernorat de Lubumbashi pour exiger la libération de M. Golden Misabiko, Président de l'Association africaine pour la défense des droits de l'Homme (ASADHO)/Katanga, détenu depuis le 24 juillet 2009 suite à la publication du rapport de l'ASADHO/Katanga intitulé : « Mine uranifère de Shinkolobwe: de l'exploitation illicite artisanale à l'accord entre la RD Congo et le groupe nucléaire français AREVA ». Alors que les manifestants quittaient le Gouvernorat, un escadron de la police mobile armé les aurait stoppés, leur aurait arraché une banderole avant de molester plusieurs manifestants. MM. Dismas Kitenge, Floribert Chebeya, Timothé Mbuya, Jean-Marie Kabanga et Elie Kadima auraient été arrêtés et conduits au poste de police de Lubumbashi. Il leur aurait été d'une part reproché d'avoir manifesté sans autorisation,

alors qu'ils avaient informé les autorités locales plus d'une semaine auparavant, conformément à l'article 26 de la Constitution de la RDC qui prévoit un régime d'information; et d'autre part demandé de fournir les preuves attestant du caractère illégal et illicite de l'exploitation artisanale de la mine uranifère de Shinkolobwe.

650. Après un interrogatoire d'une heure trente, MM. Dismas Kitenge, Floribert Chebeya, Timothé Mbuya, Jean-Marie Kabanga, et Elie Kadima auraient été informés qu'ils allaient être conduits dans les locaux de l'Agence nationale des renseignements (ANR). Finalement, ils auraient été amenés au siège du gouvernement de Lubumbashi où ils auraient été libérés.

651. En marge de ces arrestations, M. XX aurait été giflé et molesté par des éléments de l'ANR qui auraient tenté de le faire entrer à l'intérieur de leur véhicule non immatriculé et lui auraient ravi son matériel radiophonique, en dépit de la présentation de son badge de journaliste de Radio Okapi.

652. Des craintes ont été exprimées quant au fait que les arrestations de MM. Dismas Kitenge, Floribert Chebeya, Timothé Mbuya, Jean-Marie Kabanga et Elie Kadima soient liées à leurs activités non-violentes de promotion et protection des droits de l'homme. Des craintes ont également été exprimées quant à l'usage de la force par les forces de l'ordre contre les manifestants pacifiques et contre M. XX. Enfin, de sérieuses craintes ont été réitérées quant à la situation de M. Golden Bisako qui a fait l'objet d'un appel urgent envoyé le 29 juillet 2009 par la Présidente-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, le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants et la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme.

Appel urgent

653. Le 7 septembre 2009, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, le Vice-Président Rapporteur du Groupe de Travail sur la détention arbitraire et le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants, a envoyé un appel urgent concernant la situation de M. **Robert Llunga Numbi**, président national des Amis de Nelson Mandela pour la défense des droits humains (ANMDH), Mme Marie-Thérèse Kalonda, chargée de programme à l'ANMDH, M. Jean-Paul Itupa, chargé des Relations publiques au sein de la section ANMDH de Kalamu et M. Ndumba Toutou. L'ANMDH est une organisation congolaise de défense des droits de l'homme œuvrant dans la province du Bas-Congo.

654. Selon les informations reçues, le 31 août 2009, vers 16 h, M. Llunga Numbi, Mme Marie-Thérèse Kalonda, M. Jean-Paul Itupa et M. Ndumba Toutou auraient été arrêtés sur leur lieu de travail à Matonge.

655. Mme Kalonda, M. Itupa et M. Toutou auraient été libérés dans la soirée du 31 août. M. Llunga Numbi serait toujours détenu dans les locaux de l'Agence nationale des renseignements (ANR) à Kinshasa/Gombe sans qu'aucune charge n'ait été retenue contre lui. Il est allégué qu'il n'aurait accès ni à son avocat, ni à sa famille. Le 1er septembre, des membres de sa famille auraient essayé de lui faire parvenir des vivres, mais auraient essuyé un refus des agents de l'ANR.

656. Il est allégué que ces arrestations seraient liées à la publication par l'ANMDH d'un communiqué de presse en date du 17 août 2009, dénonçant les conditions de travail des ouvriers de la Société Générale Industrielle (SGI) à Kasangulu, province du Bas-Congo, et à la tenue d'une conférence de presse le 24 août à Kinshasa sur ce thème.

657. Des craintes ont été exprimées quant au fait que les arrestations de Mme Kalonda, MM, Itupa, Toutou et Llunga Numbi ainsi que le maintien en détention de M. Llunga Numbi soient liés à leurs activités non violentes de promotion et de protection des droits de l'homme. Compte tenu de la détention incommunicado de M. Llunga Numbi, des craintes ont également été exprimées quant à l'intégrité physique et psychologique de M. Llunga Numbi et plus généralement des employés de l'ANMDH.

Lettre d'allégations

658. Le 15 septembre 2009, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraire, a envoyé une lettre d'allégations concernant l'assassinat de M. **Bruno Koko Chirambiza**. M. Chirambiza était journaliste présentateur du journal en Swahili à la radio Star émettant à Bukavu.

659. Selon les informations reçues, dans la nuit du samedi 22 au dimanche 23 août 2009, alors qu'il rentrait d'un mariage, M. Chirambiza aurait été poignardé à mort par un groupe de huit personnes armées en tenue civile. M. Chirambiza serait décédé des suites de ses blessures à l'hôpital général de référence de Bukavu.

660. De vives craintes ont été exprimées quant au fait que l'assassinat de M. Chirambiza soit lié à ses activités non violentes de promotion et de protection des droits de l'homme, notamment dans l'exercice de son droit à la liberté d'opinion et d'expression. M. Chirambiza est le troisième journaliste assassiné à Bukavu en 2 ans, après MM. Didace Namujimbo et Serge Maheshe de Radio Okapi, assassinés en novembre 2008 et juin 2007 respectivement. De vives craintes ont de ce fait également été exprimées quant à l'intégrité physique et mentale des journalistes -et plus largement des défenseurs des droits de l'homme- travaillant dans l'est de la RDC.

Appel urgent

661. Le 13 octobre 2009, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme et la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, a envoyé un appel urgent sur la situation de Mme **Rebecca Agamile** et **des membres de la SOFEPADI**. Mme Agamile est la trésorière de l'association Solidarité Féminine pour la Paix et le Développement (SOFEPADI), une organisation pour la promotion des droits des femmes basée à Bunia. Un appel urgent concernant des actes de harcèlement à l'encontre des membres de la SOFEPADI a été envoyé par la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 15 avril 2008.

662. Selon les informations reçues, le 1er octobre 2009, vers 22 :00 h, huit hommes cagoulés armés auraient pénétré au domicile de Mme Agamile à Bunia. Les hommes lui auraient reproché de les accuser de violations des droits de l'homme. Ils l'auraient également menacée, ainsi que sa fille de 16 ans, de viol et de mort. Un voisin serait intervenu après avoir entendu des détonations provenant du domicile de Mme Agamile.

663. Il est allégué que Mme Agamile leur aurait versé 1.850 US dollars pour qu'ils quittent sa maison. Ces derniers auraient emporté plusieurs objets dont le téléphone portable de Mme Agamile.

664. Le 7 octobre 2009, des proches de Mme Agamile auraient reçu un appel menaçant celle-ci de se rendre à nouveau chez elle et de la tuer. Cet appel provenait du téléphone portable de Mme Agamile que les hommes armés avaient emporté le 1er octobre 2009.

665. Il est allégué que le nombre de menaces à l'encontre des membres de la SOFEPADI aurait augmenté depuis 2008. L'association serait accusée de collaborer avec la Cour pénale internationale (CPI) et de fournir des informations sur les violations des droits de l'homme.

666. Des craintes ont été exprimées quant au fait que les menaces à l'encontre de Mme Agamile et des membres de la SOFEPADI soient liées à leurs activités non-violentes de promotion et protection des droits de l'homme. Compte tenu de la gravité des menaces, des craintes ont également été exprimées quant à l'intégrité physique et psychologique de Mme Agamile, de sa fille et des membres de la SOFEPADI.

Lettre d'allégations

667. Le 18 janvier 2010, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur les effets néfastes des mouvements et déversements de produits et déchets toxiques et nocifs pour la jouissance des droits de l'homme et la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, a envoyé une lettre d'allégations concernant la situation de MM. **Loka Makuiza, Kuebo Edouard, Mabedo Mabedo, Diangu Kakudu, Tshikokolo Sibui, Tshikokolo Njimbi, Nzau Mateka, Phoba Mayuma Pablo, Mualangu Phaka, Nsamvu Sasulu, Kadioto Nsamu, Nzinga Tshitunda, Bendo Balu, Nzau Njimbi, Buela Bembe et Lakula Bueya**. Ces seize personnes sont des paysans des villages de Kongo et Tshiende, dans le Bas-Congo, protestant, entre autres, contre l'enfouissement, de déchets toxiques à proximité de leurs villages par la société pétrolière PERENCO-MIOC.

668. Selon les informations reçues, le 15 décembre 2009, les seize personnes susmentionnées auraient été arrêtées par la police et détenues au cachot de la Police Nationale Congolaise de Muanda sur ordre de l'Administrateur du territoire de Muanda et sur instruction du Gouverneur du Bas-Congo.

669. Cette arrestation aurait eu lieu au cours d'une manifestation pacifique organisé par les paysans près du terminal pétrolier de PERENCO-MIOC de Mibale. Il est allégué que cette manifestation avait pour objectif de réclamer le respect par PERENCO-MIOC de son cahier des charges et notamment la construction d'écoles, d'hôpitaux et l'embauche de membres de la communauté par la société pétrolière. Cette manifestation visait également à dénoncer l'enfouissement des déchets toxiques par PERENCO-MIOC qui aurait entraîné la pollution des

terres et de rivières situées à proximité des villages de Kongo et Tshiende. Selon les informations reçues, l'Administrateur du territoire de Muanda avait été informé de l'organisation de cette manifestation par courrier.

670. Le 16 décembre 2009, ces seize paysans auraient été transférés à la prison de centrale de Boma et accusés d'incitation à la rébellion et perturbation de l'ordre public.

671. Le 31 décembre 2009, M. Phoba Mayuma Pablo aurait été libéré sous caution en raison de son état de santé.

672. Le 8 janvier 2010, les quinze autres paysans auraient été relâchés sans qu'aucune charge ne soit retenue contre eux.

673. Des craintes ont été exprimées quant au fait que ces arrestations et détentions puissent avoir été liées aux activités non-violentes de promotion et protection des droits de l'homme de personnes susmentionnées.

Lettre d'allégations

674. Le 16 mars 2010, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences et la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, a envoyé une lettre d'allégations concernant la situation de Messieurs **Papy Avugara, Josep Likonga et Didier Nzau**, membres du Comité des droits de l'homme et de développement (CODHOD), une organisation luttant contre la pauvreté et l'injustice sociale en République Démocratique du Congo (RDC).

675. Selon les informations reçues, le 25 février 2010, MM. Avugara, Likonga et Nzau auraient été arrêtés par des policiers à Barumbu, Kinshasa, alors qu'ils filmaient le témoignage de Mme Elise Lokoku sur les conditions de travail des femmes en RDC. Mme Lokoku aurait également été arrêtée. MM. Avugara, Likonga et Nzau et Mme Lokoku auraient été détenus dans un container, puis un cachot, au sous-commissariat Epolo de la commune de Barumbu. Ils auraient été libérés le même jour.

676. Il est allégué que leur caméra aurait été saisie et que MM. Avugara, Likonga et Nzau auraient été interrogés par la police sur leurs activités et les sources de financement du CODHOD. Le responsable de la police leur aurait rendu leur caméra avant de les appeler à être prudents car ils portaient de « fausses accusations à l'égard du gouvernement ».

677. Des craintes ont été exprimées quant au fait que l'arrestation et la détention de MM. Avugara, Likonga, Nzau et de Mme Lokoku puissent avoir été liées à leurs activités non violentes de promotion et de protection des droits de l'homme.

Observations

678. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la grande majorité des communications envoyées depuis 2004. Il considère les réponses à ses communications comme partie intégrante de la coopération des gouvernements

avec son mandat. Il exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celles-ci, notamment en fournissant des informations précises sur les enquêtes menées afin de traduire en justice les auteurs des faits et les mesures de protection prises.

Djibouti

Lettre d'allégations

679. Le 9 avril 2009, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une lettre d'allégations au Gouvernement sur la situation de **M. Jean-Paul Noël Abdi**, président de la Ligue Djiboutienne des droits humains (LDDH). M. Noël Abdi a été le sujet d'un appel urgent envoyé par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 13 mars 2007. Nous accusons réception de la réponse du Gouvernement de Votre Excellence en date du 23 mars 2007. Selon les informations reçues :

680. Le 4 avril 2009, M. Noël Abdi aurait été arrêté dans le centre-ville de Djibouti par des éléments du Service de recherche et de documentation de la gendarmerie nationale. Ceux-ci lui auraient signifié, en ne produisant aucun mandat d'arrêt, que cette arrestation était motivée par des « injures publiques à l'autorité judiciaire » que M. Noël Abdi aurait proférées dans une note d'information en date du 26 mars 2009, dans laquelle il avait dénoncé les « graves manquements de la justice djiboutienne et en particulier son absence d'indépendance, illustrés par la non-motivation et la non-rédaction de certains jugements et décisions de justice en particulier dans les procès sensibles comme celui du père Sandro ». M. Noël Abdi aurait ensuite été conduit à la Brigade Nord de la gendarmerie de Djibouti avant d'être placé en garde à vue.

681. Le 5 avril 2009, M. Noël Abdi aurait été déféré devant le parquet en comparution immédiate et entendu par le substitut du procureur dans le cadre d'une procédure de flagrant délit. Il aurait ensuite été interrogé par le juge d'instruction, devant lequel il aurait nié toute injure à l'autorité judiciaire, avant d'être libéré.

682. Selon les termes de la décision de l'instruction, M. Noël-Abdi serait désormais placé sous contrôle judiciaire, se verrait opposer une interdiction de sortie du territoire ainsi qu'une obligation d'émarger de façon régulière auprès du cabinet du juge d'instruction, dans l'attente de l'ouverture d'une enquête à son encontre.

683. Des craintes ont été exprimées quant au fait que l'arrestation de M. Noël Abdi et son placement subséquent sous contrôle judiciaire puissent avoir été liés à ses activités pacifiques de défense des droits de l'homme.

Observations

684. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 9 avril 2009. Il exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celle-ci. Il considère les réponses à ses communications comme partie intégrante de la coopération des gouvernements avec son mandat.

Ecuador

Llamamiento urgente

685. El 13 de enero de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, el Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria y el Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con la detención y el ataque del **Sr. Vicente Zhuño Samaniego**, líder campesino, presidente de la Asociación de Campesinos de Limón Indanza, y miembro de la Coordinadora Nacional por la Defensa de la Vida y la Soberanía (CNDVS).

686. El CNDVS es un comité de organizaciones e individuos que defienden los derechos medioambientales, amenazados por los planes del gobierno de desarrollar proyectos de minería en gran escala en zonas rurales.

687. El 6 de noviembre de 2008, el CNDVS presentó una denuncia ante el Defensor del Pueblo de Ecuador, en la que destacaron el patrón de persecución particularmente contra miembros del Comité. Vicente Zhuño Samaniego fue uno de los líderes comunitarios mencionados en esta denuncia.

688. Según las informaciones recibidas, el 5 de enero de 2009, aproximadamente a las 18h30, Vicente Zhuño Samaniego fue arrestado en las cercanías del centro de salud ubicado en la calle principal del vecindario de Indanza, en el departamento de Limón Indanza, provincia de Morona Santiago, mientras caminaba por la calle. Los funcionarios policiales actuantes habrían cumplido órdenes del jefe político del departamento. Presuntamente, el arresto se habría sido llevado a cabo sin que hubiera una orden de arresto ni que el Sr. Vicente Zhuño Samaniego estuviera involucrado en actividad alguna en el momento de la detención. El Sr. Vicente Zhuño Samaniego habría sido trasladado a un lugar desconocido a bordo de una patrulla de la policía nacional.

689. El 6 de enero de 2009, el Sr. Vicente Zhuño Samaniego fue localizado en el Hospital de Macas, con heridas de bala en la cabeza. El habría sido incomunicado por más de 16 horas y transportado a Macas, a una distancia de 6 horas de Indanza. Permanece allí bajo custodia policial. El será sometido a una intervención quirúrgica para extraerle un perdigón localizado en la lengua. El 13 de enero se habría presentado una petición para la revocatoria de la orden de prisión preventiva.

690. En vista de lo aquí resumido, se expresó preocupación por la integridad física y psicológica del Sr. Vicente Zhuño Samaniego. Se expresó temor que la detención del Sr. Vicente Zhuño Samaniego podría estar relacionada con sus actividades legítimas en la defensa de los derechos humanos como líder comunitario y miembro del CNDVS, específicamente por su tarea de sacar a la luz el impacto social y ambiental de la minería a gran escala en Ecuador.

Respuesta del Gobierno

691. En dos cartas fechadas el 20 de marzo de 2009 y el 17 de abril de 2009, la Misión Permanente de Ecuador ante las Naciones Unidas y otros Organismos Internacionales en Ginebra respondió al llamamiento urgente.

692. Se confirmó que la detención del Sr. Zhunio Samaniego ocurrió cuando se encontraba abasteciendo de víveres a las personas que obstaculizaban la vía que conduce al Plan de Milagros – Indanza – San Juan Bosco. Los agentes de policía procedieron a pedirle sus documentos de identificación pero el Sr. Zhunio se negó a presentarlos, situación que derivó en la reacción agresiva del señor Zhunio en contra de los agentes de policía. Estos procedieron a su detención. Cuando ingresaban al patrullero, personas desconocidas, ocultas en la vegetación empezaron a disparar en contra del personal policial. De este suceso resultaron heridos tanto el señor Zhunio como el agente de policía Wilson Ramírez.

693. Se inició la Instrucción Fiscal por el delito flagrante de sabotaje a servicios públicos o privados, en contra de Joel Vicente Zhunio Samaniego con orden de prisión preventiva, quien luego de su recuperación en el Hospital del Seguro Campesino en la ciudad de Cuenca fue trasladado al centro de Rehabilitación Social de Macas el 21 enero 2009.

694. Posteriormente el imputado recupera su libertad el 5 febrero de 2009 por disposición de la Sala de la Corte de lo Penal de Morona Santiago. En la actualidad el señor Zhunio se encuentra en libertad, ejerciendo su derecho a la defensa dentro de la Institución Fiscal No. 04-2009.

695. Adicionalmente, el Ministerio de Justicia y Derechos Humanos ha enviado una comunicación, por ser materia de su competencia, a la Defensoría del Pueblo, para la realización de una veeduría del debido proceso del caso señalado.

696. En la carta fechada el 17 de abril de 2009, se proporcionó información elaborada por el Gobernador de Imbabura explicando que, el 20 de enero de 2009, en el sector de Pinsaqui “Y” de Cotocachi, los Sres. Ernesto Rodolfo Pereira, Lenin Armando Rosero, Wilmer Rolando Montenegro, Hernando Wellintong Pereira y Lenin Leonardo Alvear, amparados en el Art. 129 del Código Penal, fueron aprendidos por encontrarse obstaculizando la vía pública, y puestos a órdenes del Fiscal Distrital de Otavalo, de acuerdo a los principios del debido proceso, se realizó la respectiva Audiencia de Formulación de Cargos, en la cual fueron puestos en libertad el 21 de enero del 2009.

697. Por otra parte, el Gobernador de Morona Santiago señala que, el 21 de enero de 2009, agentes policiales se encontraban despejando la vía en el sector Las Peñas, entrada a Roldós, donde se encontraban escombros en las vías. Personas no identificadas, ocultos en la vegetación del lugar, empezaron a disparar a los miembros de la policía. Los agentes del orden tuvieron que repelar este ataque y por este suceso fueron aprendidos los señores: Carlos Gustavo Rumipulla Uyaguari, Angel Geovanni Ullaguari Zuñiga, Clever Oswaldo Lalvay Morocho y Vicente Germán Naikiai Shiki, acusados del delito de terrorismo organizado, Art. 160.1 del Código Penal.

698. Los detenidos fueron trasladados al Centro de Rehabilitación Social de Macas, el 22 de enero del 2009, de acuerdo a la boleta de encarcelamiento emitida por el Juez Tercero de lo Penal y Tránsito de Morona Santiago. Dicha decisión fue apelada por los detenidos ante la Corte Provincial de Justicia de Morona Santiago, quien aceptó la apelación interpuesta y revoca la resolución de prisión preventiva, disponiendo que por el momento no existen los suficientes elementos de juicio para dictar esta medida cautelar de prisión preventiva de los imputados. En consecuencia, el 19 febrero 2009 todos los imputados son puestos en libertad, de la cual gozan plenamente a partir de dicha fecha. Al respecto también se ha coordinado con la Defensoría del Pueblo para que realice una veeduría del debido proceso al caso señalado.

Llamamiento urgente

699. El 28 de enero de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con las amenazas contra **Asesoría y Servicios Legales para Refugiados (ASELER)**. ASELER es una organización no gubernamental ubicado en Quito, que brinda asesoría y servicios legales a demandantes de asilo y a refugiados en Ecuador.

700. Según las informaciones recibidas, el 15 de enero de 2009, aproximadamente a las 20:30, dos personas y sus familias - miembros de la Asociación de Personas en Condición de Refugio en el Ecuador (ASOREC), que proporcionaban alojamiento a un cliente de ASELER habrían hallado una carta de amenaza en la entrada de su casa, en la que se les habría declarado como objetivos militares. Dicha misiva habría sido firmada por el Comando Central de las Águilas Negras de Colombia en Rearme (Águilas Negras), un grupo armados ilegales surgidos del proceso de desmovilización de organizaciones paramilitares.

701. El día anterior, el 14 de enero de 2009, la ASOREC habría recibido otra carta de amenaza firmada por el mismo grupo armado. Esta carta habría expresado la intención de acabar con la vida de cuatro personas, incluyendo a un cliente de ASELER y su familia. Asimismo, habría declarado como objetivos militares a todos los grupos de derechos humanos, defensores de derechos humanos y organizaciones sociales que puedan dificultar la labor de las “Fuerzas Militares.” Además, otras organizaciones que proporcionan apoyo a las cuatro personas mencionadas, también habrían sido enumeradas como objetivos militares.

702. ASELER habría presentado una denuncia por intimidación en el Ministerio Público de Ecuador por las amenazas que recibió su cliente el día miércoles 14 de enero (denuncia 09-01-14129). También se habrían solicitado medidas cautelares a la Comisión Interamericana de Derechos Humanos a favor de su cliente. Luego de la segunda amenaza recibida por los dirigentes de ASOREC, se habría realizado una nueva denuncia el martes 20 de enero y se habría pedido una ampliación a las medidas cautelares presentas ante la Comisión Interamericana de Derechos Humanos para los dirigentes de ASOREC y el personal de ASELER.

703. El 9 de enero de 2009, aproximadamente a las 12:45 habría sido entregada en las oficinas de ASELER una carta que el portero del edificio habría encontrado sobre su escritorio. La carta, que habría sido firmada por el Secretariado del Estado Mayor Central de las Fuerzas Armadas Revolucionarias de Colombia, Ejército del Pueblo (FARC-EP) habría contenida una lista de 11 refugiados colombianos en Ecuador, cinco de los cuales habrían sido clientes de ASELER,

señalándolos como objetivos militares. La carta también habría solicitado la colaboración de camaradas con el fin de tomar represalias contra varias organizaciones (en total cinco organizaciones), todas ellas vinculadas a algunas de las personas enumeradas como objetivos militares en la misma carta. En rojo, en la parte superior de la carta, se habría podido leer “GRUPO DE BUSQUEDA Y LIMPIEZA FARC-EP Guerrilla Urbana” y el fondo de la carta habría consistido en la silueta del mapa de Colombia sobre la que se habría encontrado el texto “FARC-EP” sobre la imagen de un libro abierto y dos fusiles cruzados.

704. El mismo día, ASELER habría presentado una denuncia por intimidación ante el Ministerio Público (trámite número 09-01-09075). También se habrían solicitado medidas cautelares a la Comisión Interamericana de Derechos Humanos a favor de las personas enumeradas en la carta como objetivos militares.

705. Se expresó temor que las amenazas contra ASELER, así como contra las personas y organizaciones mencionadas, podrían estar motivadas por su trabajo legítimo de defensa de los derechos humanos, específicamente por el apoyo que se da a refugiados en el Ecuador. En vista de lo aquí resumido, se expresó preocupación por la integridad física y psicológica de los miembros de ASELER.

Llamamiento urgente

706. El 18 de febrero de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con las amenazas contra la **Sra. Leidy Johanna Vélez Moreira**, a su compañero, el **Sr. Neil Wernher Bastante Cárdenas**, y a su familia. Leidy Johanna Vélez Moreira es agente de policía.

707. Según las informaciones recibidas, el 23 de enero de 2009, un agente de policía habría seguido a la Sra. Vélez Moreira cuando habría sido concurrido a una reunión con el fiscal responsable de la investigación de la tortura y asesinato de sus hermanos, los Sres. Yandry Javier Vélez Moreira y Juan Miguel Vélez Cedeño, ocurridos en diciembre de 2008. Un día después, varios agentes de policía también habrían seguido a su compañero, el Sr. Neil Wernher Bastante Cárdenas, en un automóvil sin placas de matrícula. Algunos de estos policías ya los habrían seguido el 28 de diciembre de 2008.

708. Las acciones intimidatorias contra la Sra. Leidy Vélez Moreira y su familia habrían comenzados en octubre de 2007, cuando su casa familiar de Quito habría sido objeto de un registro a cargo de agentes vestidos de civil. Al parecer, los agentes habrían buscado al Sr. Yandry Javier Vélez Moreira, hermano de la Sra. Leidy Vélez Moreira, por considerarlo sospechoso de robo. Los agentes no habrían sido munidos de órdenes de registro o de detención y, según informes, habrían preguntado a la Sra. Leidy Vélez dónde estaba su hermano. También la habría amenazado con traerle la cabeza de Sr. Yandry Javier en una bandeja de plata si no revelaba su paradero. Al protestar Leidy Vélez, los agentes la habrían insultado y habría detenido a su compañero, quien habría quedado en libertad 20 días después.

709. Seis meses después, en junio de 2008, el agente de policía a cargo del registro en casa de la Sra. Leidy Vélez se habría dirigido a ella en la calle. Según la versión de Leidy Vélez, el agente la habría agarrado del brazo y le habría amenazado y a su hermano. La Sra. Leidy Vélez habría

informado a sus superiores de todos los hechos a medida que tuvieron lugar. Según informes, hasta la fecha no habrían tomado ninguna medida. En octubre de 2008 la Sra. Leidy Vélez habría presentado una denuncia formal ante la policía.

710. A los Sres. Yandry Javier Vélez Moreira y Juan Miguel Vélez Cedeño los encontraron muertos el 12 de diciembre de 2008. Les habían disparado y, según informes, presentaban señales de haber sido torturados antes de su muerte. Según sus familiares, los hermanos habrían salido de su casa la noche anterior y los habrían matado cuando se desplazaban en la furgoneta de su madre. Unos días antes de estos acontecimientos, cuando los hermanos habrían viajados con unos familiares en la misma camioneta, unos agentes vestidos de civil los habrían parado y les habrían pedido sus documentos de identidad. Cuando los agentes vieron el documento del Sr. Yandry Vélez dijeron: “Tú eres el famoso Yandry Vélez Moreira, contra ti tenemos una consigna; agradece que estás con tu familia”.

711. La familia Vélez habría presentado varias denuncias contra el Grupo de Apoyo Operacional de la policía (GAO), entre ellas una por la muerte y tortura de los Sres. Yandry Vélez Moreira y Juan Miguel Vélez Cedeño en Montecristi, provincia de Manabí, en diciembre de 2008.

Respuesta del Gobierno

712. En una carta fechada el 1 de abril de 2009, la Misión Permanente del Ecuador ante Naciones Unidas y otros Organismos Internacionales en Ginebra respondió al llamamiento urgente.

713. El Gobierno del Ecuador señaló que, en su opinión, el caso presentado en el llamamiento urgente no se trataba de defensores de derechos humanos y no había implicación alguna de las libertades de opinión o expresión.

714. Se informó que se trataba de actos delictivos bajo investigación dentro de la justicia ordinaria del país y sometidos al debido proceso.

715. En relación con el caso de la señora Leidy Johanna Vélez Moreira y sus familiares, el Ministerio de Justicia y Derechos Humanos del Ecuador facilitó la siguiente información:

716. En lo referente a la posible tortura y muerte de Yandry Javier Vélez Moreira y José Vélez Cedeño, la Fiscalía de la Provincia de Manabí inició la indagación previa respectiva, en virtud de la denuncia planteada por la señora Leidy Vélez Moreira.

717. Se informó que La Unidad Distrital de Asuntos Internos del Comando del Primer Distrito de la Policía Nacional estaba realizando las investigaciones sobre la denuncia presentada por Leidy Vélez Moreira, en la Primera Corte Distrital de Justicia Policial, en contra de los presuntos responsables del allanamiento e intimidaciones en su contra, así como de las posibles torturas y muertes de sus hermanos.

718. El Ministerio de Justicia y Derechos Humanos gestionó con la Fiscalía General del Estado el ingreso de Leidy Vélez Moreira al Programa de Protección de Víctimas y testigos quienes están a cargo de su protección.

719. Se estaban coordinando acciones con la Defensoría del Pueblo para que vigile el debido proceso en la denuncia penal presentada en contra de miembros de la Policía Nacional por la muerte de los hermanos de Leidy Vélez Moreira.

720. El Ministerio de Justicia y Derechos Humanos solicitó al Ministerio de Gobierno y Policía que vigile el proceso de la investigación administrativa que la Dirección de Asuntos Internos de la Inspectoría General de la Policía Nacional, lleva a cabo por la denuncia presentada por la señora Leidy Vélez Moreira.

721. Se informó que el Ministerio de Justicia y Derechos Humanos mantiene contacto permanente con Leidy Vélez Moreira, para evaluar su situación y dar seguimiento de los procesos tanto para su protección como para garantizar su derecho a acceder a la justicia de manera efectiva.

Llamamiento urgente

722. El 4 de mayo de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos y la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con el ataque contra las **Sras. Rosa Etelvina Misacango Chuñir y Gloria Livia Jiménez Berrezueta**, quienes son integrantes del Frente de Mujeres Defensoras de la Pachamama, una organización que se ocupa de los problemas que enfrentan las mujeres como resultado de los proyectos mineros.

723. Según la información recibida, el 22 de abril de 2009, aproximadamente a las 19:00 horas, dos hombres y dos mujeres conocidos de la Sra. Misacango Chuñir habrían venido a su casa ubicada en el Barrio 13 de Abril del centro parroquial de Molleturo, y la habrían atacado verbal y físicamente.

724. Las cuatro personas habrían entrado por la fuerza a la casa de la Sra. Misacango Chuñir y habrían dicho: “vaga, por vaga andas haciendo problema... no ves que las mineras van a traer trabajo... vaga, porque no tienes que hacer andas fastidiando”. La Sra. Misacango Chuñir habría sido agredida físicamente, junto con su hijo, en presencia de sus dos nietos de 2 y 5 años. La Sra. Misacango Chuñir habría recibido patadas y golpes y habría sido arrastrada del cabello hasta la calle. Según la información recibida, la agresión terminó con la intervención de personas en la calle. Como resultado del ataque, la Sra. Misacango Chuñir habría sufrido contusiones por todo el cuerpo, así como hinchazones en la cabeza y heridas como consecuencia del pelo que le fue arrancado.

725. El día 23 de abril, la Sra. Misacango Chuñir habría puesto una denuncia del ante la Fiscalía de Cuenca. Se alegó que los agresores estaban a la espera de recibir trabajo en la minería, concretamente en la empresa EcuadorGold.

726. Asimismo, se informó que el 25 de diciembre de 2008, la Sra. Gloria Livia Jiménez Berrezueta, otra integrante del Frente de Mujeres Defensoras de la Pachamama, también habría sido atacada en la parroquia Victoria del Portete. Sus agresores no habrían sido procesados o condenados.

727. En visto de lo aquí resumido se expresó temor que estos ataques podrían estar directamente relacionados con el trabajo legítimo que realizan las Sras. Rosa Etelvina Misacango Chuñir y Gloria Livia Jiménez Berrezueta en defensa de los derechos humanos, en particular en relación con los problemas que enfrentan las mujeres como resultado de los proyectos mineros. Se expresó preocupación por la integridad física y psicológica de las Sras. Misacango Chuñir y Jiménez Berrezueta, así como por la de los demás miembros del Frente de Mujeres Defensoras de la Pachamama.

Observaciones

728. El Relator Especial agradece la información proporcionada por el Gobierno de Ecuador. No obstante, el Relator Especial lamenta que en el momento de finalizar este informe, el Gobierno no le haya remitido información en respuesta a las comunicaciones del 28 de enero de 2009 y 4 de mayo de 2009 e insta al gobierno ecuatoriano a que adopte todas las medidas necesarias para proteger los derechos y las libertades de las personas mencionadas en estos casos, así como investigar, procesar e imponer las sanciones adecuadas a todas las personas responsables de las violaciones alegadas.

Egypt

Urgent appeal

729. On 20 February 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human Rights defenders and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding **Mr. Dia' el Din Gad**, an Egyptian citizen and student blogger. According to information received:

730. On 6 February 2009, Mr. Dia' el Din Gad was arrested outside his home in Qotour city, near Tanta city (north of Cairo) by State Security Investigations (SSI) officers. Just before his arrest, Dia' el Din Gad had returned to his home in Qotour city. When he left the house, he was immediately arrested by SSI officers and allegedly beaten as he was taken away.

731. He is reportedly held incommunicado in an unknown location, and his whereabouts have not been disclosed by the Egyptian authorities, despite inquiries by his family and his lawyer with the Ministry of the Interior and the office of the Public Prosecutor.

732. According to local activists, a few days before he was arrested, Dia' el Din Gad had taken part in demonstrations organized by the liberal Wafd opposition party in Cairo in solidarity with the people of Gaza.

733. On his blog Dia' el Din Gad criticized the Egyptian policy regarding Gaza – including the restrictions on humanitarian aid delivered through Egypt to Gaza – and regarding the 4 February arrest of Ahmed Doma, a leading member of a youth movement, the Popular Movement to Free Egypt.

734. Mr. Dia' el Din Gad reportedly frequently suffers panic attacks which make it difficult for him to breathe. He also has difficulty walking or bending one of his legs, due to injuries suffered in childhood. He takes medication, which he did not have with him when he was arrested.

735. In view of the alleged detention of Mr. Dia' el Din Gad at an undisclosed or unconfirmed location, concern was expressed that he may be at risk of torture or other forms of ill-treatment. We should like to appeal to your Excellency to seek clarification of the circumstances with a view to ensuring that the right to physical and mental integrity of Mr. Dia' el Din Gad is protected.

Urgent appeal

736. On 5 May 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding the warning letter received by the **Egyptian Organization for Human Rights (EOHR)** from the Egyptian Ministry of Social Solidarity. The Egyptian Organization for Human Rights has been a fully functioning Non-Governmental Organization (NGO) since 1985, and has worked to increase respect for human rights through fact-finding missions, publications and awareness-raising.

737. The then Special Representative of the Secretary General on the situation of human rights defenders previously sent an allegation letter concerning the EOHR on 19 January 2004. According to the information received:

738. On 27 April 2009, the Egyptian Organization for Human Rights (EOHR) received a letter from the Egyptian Ministry of Social Solidarity, warning EOHR of the possibility that it would be subjected to closure and dissolution for violating the Law of Association No. 84 of 2002 (NGO Law). The letter indicated that Article 42 of the NGO Law had been breached by EOHR, which, allegedly, had received foreign funding without authorization.

739. The warning sent by the Ministry of Social Solidarity related to the regional conference on the right to access to information, titled "Information is a right for all", which took place on 27-28 January 2009 in Cairo. The conference was organized by EOHR, with the cooperation of the Centre of Media Freedom in the Middle East and North Africa (CMF MENA).

740. On 31 July 2008, EOHR allegedly notified the competent authorities of the conference and requested authorization to receive funding from the CMF MENA, in order to cover travel expenses for the participants attending the conference. According to the source, no response was received from relevant authorities within 60 days, the time frame provided by law. According to the NGO Law, lack of response from the authorities within the specific time frame implicates initial approval. In view of this, EOHR and CMF MENA proceeded with the organization of the conference.

741. The 27 April 2009 warning came following the release of EOHR's Annual Report 2008, and two other EOHR reports on torture and freedom of opinion and expression in Egypt.

742. Concern was expressed that the warning letter received from the Ministry of Social Solidarity could be related to EOHR's activities in support of the right to freedom of expression.

Response from the Government

743. On 4 August 2009, the Government responded to the urgent appeal. The Government indicated that the EOHR made use of foreign funding to organize, jointly with the Centre for Media Freedom in the Middle East and North Africa, a regional conference on the right to access information held in January 2009. The EOHR has informed the MSS before the event but did not complete the due legal process till after the completion of the project in contravention to Law No. 84 regulating the activities of NGOs in Egypt.

744. In exercising its legal mandate as regulator of the activities of civil society in Egypt including non governmental organizations, the MSS sent a letter of inquiry on the relevant circumstances to the EOHR making reference to a number of articles of Law No. 84 including article 42 which penalizes non-conforming organizations with the penalty of closure.

745. The EOHR misinterpreted the MSS letter and considered it a warning for closure notwithstanding the nature of the letter, which is a routine communication, regularly sent in such situation. Subsequently, the EOHR sent an explanatory letter to the MSS clarifying that the EOHR has filed on March 27, 2009 a formal request at the MSS for permission to utilize the funding for the purposes of the conference and pursuant to an exchange of contacts, a process is in progress to fulfill the relevant procedures in order to grant the required permission to the EOHR.

Observations

746. The Special Rapporteur thanks the Government of Egypt of the response provided to the urgent appeal of 5 May 2009, but regrets that at the time of the finalization of the report, the Government had not transmitted any replies to several communications sent in 2009, 2008, 2007 and 2006. He considers response to his communications as an important part of the cooperation of Governments with his mandate.

El Salvador

Llamamiento urgente

747. El 15 de enero de 2010, el Relator Especial, junto con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre los efectos nocivos para el goce de los derechos humanos del traslado y vertimiento de productos y desechos tóxicos y peligrosos, enviaron un llamamiento urgente sobre los asesinatos del Sr. **Ramiro Rivera** y de la Sra. **Dora Alicia Recinos Sorto**, las amenazas de muerte contra el Sr. **José Santos Rodríguez**, el esposo de la Sra. Recinos Sorto, y los actos de intimidación y amenazas de muerte contra la Sra. **Isabel Gámez** y los demás miembros del personal de Radio Victoria. El Sr. Rivera era vicepresidente del Comité Ambiental de Cabañas (CEC), una organización que realiza actividades de información sobre las consecuencias negativas de la minería de oro tanto para la salud como para el medio ambiente, y en particular sobre el impacto de la contaminación por cianuro. La Sra. Recinos Sorto era integrante de la misma organización. El Sr. Santos Rodríguez es miembro de la junta directiva del CEC. La Sra. Gámez es periodista de Radio Victoria, una estación de radio del municipio de Victoria, en Cabañas, que ha denunciado públicamente a la

empresa minera canadiense Pacific Rim por daño medioambiental y que también denunció el secuestro, tortura y asesinato del defensor del medio ambiente, el Sr. **Marcelo Rivera**, en junio de 2009. El Sr. Marcelo Rivera también realizaba actividades de protesta contra la minería.

748. Según las informaciones recibidas, la empresa minera canadiense Pacific Rim no estaría operando actualmente en la mina El Dorado en Cabañas, aunque buscaría su reapertura. Muchos opositores a la minería habrían realizado manifestaciones protestando dicha reapertura por varias razones, entre ellas, la contaminación de los ríos y la enorme extracción de agua para el uso de la mina, la cual supone una escasez de agua para el uso de la gente de la región.

749. El 26 de diciembre de 2009, a las 3:30 horas de la tarde aproximadamente, la Sra. Recinos Sorto habría sido asesinada por hombres armados no identificados mientras caminaba hacia su casa con su hijo de dos años en sus brazos. La Sra. Recinos Sorto se encontraría en su octavo mes de embarazo cuando la asesinaron. El niño de dos años habría resultado herido en el incidente.

750. Durante el año 2009, la Sra. Recinos Sorto habría denunciado el hecho de que su esposo, el Sr. Santos Rodríguez, hubiera recibido varias amenazas de muerte y que en varias ocasiones hombres armados no identificados habrían llegado a su casa preguntando por el paradero de su esposo. Asimismo, en mayo de 2008, el Sr. Santos Rodríguez habría sido atacado con un machete.

751. Paralelamente, el 20 de diciembre de 2009, el Sr. Ramiro Rivera habría sido asesinado a tiros mientras conducía en su camioneta con un colega y una adolescente. Los agresores se habrían acercado a la camioneta y habrían disparado varias veces, matando al Sr. Rivera y a su colega. La adolescente habría resultado herida en el incidente.

752. El Sr. Ramiro Rivera habría sido beneficiario de medidas de protección brindadas por la policía tras un incidente sucedido el 7 de agosto de 2009, momento en el que habría sido víctima de una tentativa de asesinato.

753. Asimismo, se informó que, el 23 de diciembre de 2009, se habría enviado una amenaza de muerte por correo electrónico a dieciséis miembros del personal de Radio Victoria que decía: “Bueno, ya mandamos al hoyo a dos, la pregunta es quién va ser el tercero, será acaso el Padre Quintanilla o alguno de los de la radio, no es mala idea seguir mejor con alguno de los bocones de la Radio Victoria ... No importa que anden un batallón de policías cuidándolos detrás como perros, cuando lo queremos, las muertes van a seguir y nadie detiene la venganza iniciada, preferimos que el tercero de los muertos sea un locutor, o un corresponsal..., el blanco más seguro es un locutor, cuidasen que no estamos jugando esta es la nueva ola de advertencias que estamos iniciando luego de quebrarnos a Ramiro”.

754. El 24 de diciembre de 2009, ocho de las personas que habrían recibido la amenaza del día anterior habrían recibido también un nuevo correo electrónico amenazante informándoles que ya habrían elegido a la persona que iban a asesinar. El 27 de diciembre de 2009, el día después del asesinato de la Sra. Recinos Sorto, seis hombres armados no identificados habrían llegado a la casa de la Sra. Gámez, una periodista de Radio Victoria. Los hombres se habrían asomado por las ventanas del recinto, pero se habrían retirado al darse cuenta de que la Sra. Gámez no se encontraba allí.

755. Se teme que los asesinatos de la Sra. Recinos Sorto y los Sres. Ramiro Rivera y Marcelo Rivera, así como las amenazas de muerte contra el Sr. Santos Rodríguez estén relacionados con sus actividades en defensa de los derechos humanos y, en particular, con sus actividades de protesta contra la minería en Cabañas. Asimismo, se teme que las amenazas de muerte contra el personal de Radio Victoria estén relacionadas con el hecho de que hayan denunciado violaciones de derechos humanos, entre ellos, la tortura y asesinato del Sr. Marcelo Riveras. Se hace expresa la preocupación de que estos actos de agresión y amenazas busquen intimidar a las organizaciones sociales en Cabañas. Se hace expresa también una profunda preocupación por la integridad física y psicológica del Sr. Santos Rodríguez y del personal de Radio Victoria.

Respuesta del Gobierno

756. En una carta fechada el 25 de marzo de 2010, el Gobierno respondió a la comunicación indicando su plena disposición de cumplir con sus compromisos internacionales e indicó que, en este sentido, las consultas con las instituciones pertinentes aún están en curso. En la carta el Gobierno solicita una prórroga para la presentación de los informes referentes a los casos mencionados.

757. En una segunda carta, de fecha 5 de marzo de 2010, el Gobierno proporcionó información adicional respecto a la comunicación enviada el 15 de enero de 2010, como se indica a continuación.

758. Según el informe de la investigación a cargo de la Fiscalía General de la República, se ha establecido plenamente la existencia del delito de homicidio agravado en perjuicio del señor **Gustavo Marcelo Rivera Moreno**, sucedido en el Cantón Agua Zarca, Municipio de Ilobasco, Departamento de Cabañas, el 18 de junio de 2009. A partir de la investigación llevada a cabo por dicha Institución del Estado, se estableció que el 18 de junio de 2009, el señor Gustavo Marcelo Rivera Moreno habría salido de su casa de habitación para acudir a una reunión en horas de la tarde con un sujeto perteneciente a la Mara Salvatrucha, siendo el punto de reunión el desvío conocido como El Molino, lugar al que otros dos sujetos pertenecientes a la misma Mara lo irían a recoger para conducirlo a un terreno ubicado en el Cantón Agua Zarca. El señor Gustavo Marcelo Rivera Moreno habría tenido una discusión con los miembros del grupo, la cual tuvo como resultado la agresión y homicidio del señor Gustavo Marcelo Rivera Moreno. Una vez muerto, sacaron el cadáver de la casa y lo lanzaron a un predio baldío. Posteriormente, en horas de la madrugada se presentó uno de los autores materiales en compañía de otras 3 personas, para mover el cadáver hacia un pozo artesanal. El 29 de junio de 2009, fue localizado el cadáver por miembros de la Policía Nacional Civil.

759. Diversos organismos sociales, entre ellos representantes de la Asociación Amigos de San Isidro Cabañas (ASIC), a la cual pertenecía la víctima, han rechazado la versión de la Fiscalía General de la República que no ha sido descrita, en audiencia realizada en la sede del Ministerio de Relaciones Exteriores. No obstante, la hipótesis descrita es la única que ha sido judicializada por la autoridad fiscal en el proceso penal correspondiente.

760. Asimismo, se ha establecido plenamente la existencia del delito de homicidio agravado en perjuicio del señor Ramiro Rivera Gómez, sucedido en el Cantón Trinidad, Municipio de Sensuntepeque, Departamento de Cabañas, el 20 de diciembre de 2009, mientras se conducía a bordo de su vehículo particular, siendo acompañado por personal de la División de Víctimas y

Testigos, quienes le brindaban protección especial desde el 29 de agosto de 2009. El señor Ramiro Rivera Gómez formaba parte de la Mesa Nacional contra la Minería.

761. A partir de la investigación a cargo de la Fiscalía General de la República, también se ha establecido plenamente la existencia del delito de homicidio en perjuicio de la señora **Dora Alicia Recinos Sorto** sucedido en el Cantón Trinidad, Municipio de Sensuntepeque, Departamento de Cabañas, el 26 de diciembre de 2009, mientras regresaba de lavar ropa de una quebrada, cargando en brazos a uno de sus hijos de dos años de edad, cuando personas desconocidas salieron a su encuentro y le dispararon, falleciendo al instante y resultando en el mismo acto lesionado el hijo de la señora Recinos Sorto.

762. En relación a las amenazas que se han producido en este caso, según la Fiscalía General de la República, el 9 de noviembre de 2009, en el lugar de residencia de la señora Dora Alicia Recinos Sorto y el señor José Santos Rodríguez, aproximadamente a las 9 de la noche, varios sujetos se hicieron presentes y preguntaron por el señor Rivera Gómez, al no obtener respuesta, amenazaron con asesinar a todos los involucrados si no lo encontraban.

763. En cuanto al caso de los actos de intimidación y amenazas de muerte contra la señora **María Isabel Gámez** y los demás miembros del personal de Radio Victoria, según consta el informe de investigación de la Policía Nacional Civil, a principios del mes de julio de 2009, las víctimas empezaron a recibir amenazas de muerte vía correo electrónico (Internet), anónimos (escritos a mano), mensajes de celular y mediante llamadas telefónicas a celulares y teléfonos fijos.

764. En relación con las investigaciones y diligencias judiciales iniciadas respecto del asesinato del señor **Gustavo Marcelo Rivera Moreno**, la Policía Nacional Civil, a través de la División Elite contra Crimen Organizado (DECO), y bajo el direccionamiento funcional de la Fiscalía General de la República, realizó diligencias de investigación en el periodo transcurrido entre el 30 de junio de 2009 y el 15 de julio del mismo año, la mayoría de ellas basadas en información proporcionada, según la Fiscalía General de la República, en un testigo cuya identidad mantiene en reserva de confidencialidad:

1. Acta de denuncia en la que se establece que el señor Gustavo Marcelo Rivera Moreno desapareció en horas de la tarde del 18 de junio de 2009.
2. Acta policial en fecha del 24 de junio de 2009, en la que se deja constancia de las labores de búsqueda que se realizaron alrededor de la zona.
3. Acta policial con fecha del 24 de junio de 2009, en la que se deja constancia de la localización del testigo clave, a quien se le otorgó Régimen de Protección, quien brindó información que llevó a la localización del cadáver.
4. Acta de inspección ocular policial y levantamiento del cadáver de la víctima, del 30 de junio de 2009.
5. Actas de entrevistas a testigos presenciales y no presenciales.
6. Acta de pesquisas policiales del 6 de julio de 2009, en la cual se individualiza a los imputados.

7. Acta policial del 7 de julio de 2009, mediante la cual consta que el testigo clave reconoce a los imputados a través del recorrido fotográfico Kardex.
8. Orden administrativa en contra de los imputados.
9. Actas de captura de los imputados.
10. Orden de registro con prevención de allanamiento, en la cual se autoriza el allanamiento de cuatro inmuebles.
11. Actas de allanamiento de las residencias de los imputados.
12. Autopsia de la víctima, el señor Gustavo Marcelo Rivera Moreno.
13. Informe de investigación biológica de criminalística, en el que se establece a partir del análisis de ADN que el cadáver de la víctima corresponde al del señor Gustavo Marcelo Rivera Moreno.
14. Reconocimiento medico forense del levantamiento del cadáver.
15. Álbum fotográfico.

765. Las diligencias motivaron a la Fiscalía General de la Republica a ordenar la detención el 7 de julio de 2009, de cuatro personas por atribuírseles el delito de homicidio agravado en contra del señor Gustavo Marcelo Rivera Moreno; y tres personas detenidas por atribuírseles el delito de encubrimiento en el delito de homicidio agravado del señor Gustavo Marcelo Rivera Moreno; además a todos los detenidos se les atribuyó el delito de agrupaciones ilícitas en perjuicio de la paz pública.

766. La Audiencia de Imposición de Medidas se realizó el 13 de julio de 2009, en el Tribunal Especializado de Instrucción B, de la ciudad de San Salvador, donde se decretó la Medida de Detención Provisional en contra de los imputados.

767. En relación a uno de los sujetos acusados de encubrimiento, fue requerido como Ausente en el Centro Penal de Chalatenango y posteriormente intimado en dicho Centro Penitenciario.

768. Según el informe de la Fiscalía General de la Republica, el proceso judicial ha finalizado su fase de instrucción y la Fiscalía de Crimen Organizado presentó el Dictamen Acusatorio ante el mismo Tribunal el 13 de febrero de 2010. El Juez Especializado de Instrucción B, quien conoce el caso, estableció el viernes 30 de abril del presente año, como la fecha para la realización de la Audiencia Preliminar, en que se decidirá si los imputados enfrentan el juicio por los delitos que se les atribuyen.

769. Con relación al caso del homicidio agravado en contra del señor **Ramiro Rivera Gómez**, las diligencias iniciales de la investigación realizadas por la Policía Nacional Civil bajo el direccionamiento funcional de la Fiscalía General de la Republica, son acta de inspección ocular del lugar del homicidio, a través de la cual se recolectaron las siguientes evidencias: muestras de sangre, 19 casquillos de metal calibre 9mm, 3 casquillos calibre 5.56mm, y un arma de fuego

tipo revolver calibre 5.56mm ubicada a la orilla de la calle al costado norponiente del vehiculo; reconocimiento del cadáver; autopsia de la victima; y actas de entrevistas a testigos presenciales y no presenciales.

770. Con relación al caso del homicidio en contra de la señora Dora Alicia Recinos Sorto, las diligencias iniciales la investigación realizadas por la Policía Nacional Civil bajo el direccionamiento funcional de la Fiscalía General de la Republica, son acta inspección ocular del lugar del homicidio, a través de la cual se dejo constancia de la existencia de más de 5 lesiones producidas por arma de fuego en el cadáver de la señora Dora Alicia Recinos Sorto; así como también se recolectaron un proyectil y 5 casquillos al parecer calibre 9 mm; solicitud de ratificación de los casquillos al Tribunal correspondiente, y su posterior envío a la División Técnica y Científica de la Policía Nacional Civil, para su respectivo estudio; reconocimiento del cadáver; autopsia de la victima; y actas de entrevistas a testigos presenciales y no presenciales.

771. La Policía Nacional Civil manifestó que no existe evidencia de que el homicidio cometido contra el señor Gustavo Marcelo Rivera Moreno, esté relacionado con el homicidio del señor Ramiro Rivera Gómez, ni con el de la señora Dora Alicia Recinos Sorto.

772. En los casos de los homicidios del señor Ramiro Rivera Gómez y el de la señora Dora Alicia Recinos Sorto, la Fiscalía General de la Republica mantiene abiertas las investigaciones, sin haber establecido las hipótesis respectivas sobre la autoria de los homicidios.

773. En relación con las investigaciones y diligencias judiciales iniciadas en relación con las amenazas de muerte contra el señor **Santos y la señora Isabel Gámez** y contra los miembros del personal de Radio Victoria, la Policía Nacional Civil ha informado que dentro de sus archivos de control de denuncias, no encuentra registro sobre alguna denuncia interpuesta por la señora Dora Alicia Recinos Sorto, por el delito de amenazas contra su compañero de vida, el señor José Santos Rodríguez, o contra ella misma, en fechas anteriores a su homicidio.

774. Sin embargo, a raíz del homicidio del señor Ramiro Rivera Gómez, la Delegación de la Policía Nacional Civil del Departamento de Cabañas asignó, a partir del 20 de diciembre de 2009, una patrulla policial para brindar seguridad a los habitantes del Cantón Trinidad, y otra al Cantón la Maraña, ambos en el Municipio de Sensuntepeque, Departamento de Cabañas; además ordenaron patrullajes y controles vehiculares en calles aledañas a los Cantones antes mencionados; y visitas de parte de la Jefatura Policial para supervisar los dispositivos policiales antes mencionados. Además, la denuncia por el delito de amenazas interpuesta por el señor José Santos Rodríguez fue incorporada a las diligencias realizadas en el caso de las amenazas de muerte en contra de la señora María Isabel Gámez y los demás miembros del personal de Radio Victoria.

775. En relación con las investigaciones y diligencias judiciales iniciadas en relación con las amenazas de muerte contra la señora **Isabel Gámez** y contra los miembros del personal de Radio Victoria, en los archivos de control de denuncias de la Policía Nacional Civil, se encuentran registradas 12 denuncias por el delito de amenazas interpuestas por las victimas la señora María Isabel Gámez, el señor José Santos Rodríguez y los miembros del personal de Radio Victoria: el señor Oscar Arnulfo Ramírez Beltrán, el señor Edward Manuel Renderos Lara, el señor Alejandro Lainez García, el señor Vladimir Abarca Ayala, el señor José Alexander Beltrán Castillo, el señor Ludwin Franklin Iraheta, la señora Irene de Jesús Rivas, el señor José Pablo

Escobar Ayala, el señor Miguel Ángel Ayala López, el señor Santos Neftalí Ruiz Martínez, el señor Francisco Antonio Pineda Gutiérrez, y el señor Luis Alberto Quintanilla Rodríguez.

776. Concerniente a las investigaciones iniciadas a partir de estas denuncias, que se están conociendo en la Unidad Fiscal Especializada de Delitos Contra el Crimen Organizado de la Fiscalía General de la Republica y la División de Investigaciones Criminales de la Policía Nacional Civil, ambas autoridades reportaron que se han realizado las siguientes diligencias: (a) actividades correspondientes para lograr establecer el origen de las llamadas telefónicas, los correos electrónicos de donde amenazan a las víctimas, secuestrando de forma legal los teléfonos de las victimas a fin de asegurar la evidencia, además de la sustracción de información (IP) de los correos recibidos por las victimas; (b) solicitud de bitácoras telefónicas; (c) actas de entrevistas a las victimas y testigos; (d) anticipo de prueba grafotécnica en manuscritos enviados a las victimas, en la que se determinó que los cuatro manuscritos secuestrados han sido escritos por diversas personas.

777. A raíz de las diligencias iniciales de la investigación, se ha logrado establecer los números de IP desde los cuales fueron enviados los mensajes vía correo electrónico a los celulares de las victimas, así como también se determinó el numero telefónico desde donde son originadas algunas de las llamadas amenazantes, logrando individualizar a la persona a quién está asignado dicho numero telefónico.

778. En relación con las medidas de protección adoptadas para garantizar la integridad física y psicológica del señor **Santos Rodríguez**, desde el 26 de diciembre de 2009, se le ha incluido dentro del Programa de Protección a Víctimas y Testigos, habiéndose dictado en su caso medidas ordinarias de protección.

779. En relación con las medidas de protección adoptadas para garantizar la integridad física y psicológica de la señora **Isabel Gámez** y los 12 miembros del personal de Radio Victoria, son parte del Programa de Protección a Víctimas y Testigos, otorgándoseles dicha protección en diferentes fechas a partir del 1 de agosto de 2009, en atención al requerimiento presentado por el señor Director del Área de Protección a Víctimas y Testigos, de fecha 16 de agosto de 2009.

Carta de alegaciones

780. El 3 de febrero de 2010, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron una carta de alegaciones en relación con el **Sr. Victoriano Abel Vega**. El Sr. Victoriano Abel Vega era Secretario General del Sindicato de Trabajadores y Empleados Municipales de la Alcaldía de Santa Ana (SITRAMSA) y afiliado de la Central Autónoma de Trabajadores Salvadoreños (CATS). Trabajaba en defensa de los derechos laborales y sindicales, y en particular de los derechos de los trabajadores urbanos, y era un fuerte crítico de los despidos de estos trabajadores.

781. Según las informaciones recibidas, el 15 de enero de 2010, Sr. Abel Vega habría viajado a San Salvador para tomar parte en una reunión con otros dirigentes sindicales, con el fin de organizar manifestaciones y de presentar una denuncia en relación con los despidos de varios trabajadores de la Alcaldía de Santa Ana, un acto que habría violado los Convenios 87 y 98 de la Organización Internacional del Trabajo (OIT).

782. Aproximadamente a las 5.20 horas de la madrugada frente al parque Anita Alvarado de Santa Ana, Victoriano Abel Vega habría sido atacado por seis hombres armados no identificados quienes lo habrían matado con seis disparos de una pistola de 9 mm.

783. Se informó que Victoriano Abel Vega habría recibido varias amenazas de muerte previamente, como resultado de su trabajo con los sindicatos y su crítica pública de violaciones de los derechos laborales. Estas amenazas supuestamente habrían sido enviada por los alcaldes del municipio de Ahuachapan y de San Sebastián Salitrillo.

784. Se teme que el asesinato del Sr. Abel Vega esté relacionado con las actividades que él realizaba para promover y defender los derechos de la gente de El Salvador. Se expresa una profunda preocupación por la integridad física y psicológica de todos los defensores de los derechos laborales y sindicales. Este asesinato, de ser confirmado, se enmarcara en un contexto de gran vulnerabilidad para los defensores de los derechos humanos en el Salvador.

Respuesta del Gobierno

785. En una carta fechada el 25 de marzo de 2010, el Gobierno respondió a la comunicación indicando su plena disposición de cumplir con sus compromisos internacionales e indicó que, en este sentido, las consultas con las instituciones pertinentes aún están en curso. En la carta el Gobierno solicita una prórroga para la presentación de los informes referentes a los casos mencionados.

Observaciones

786. El Relator Especial agradece al Gobierno su respuesta de fecha 25 de marzo de 2010 relativa a la carta de alegación enviada el 3 de febrero, y espera recibir información sustantiva adicional acerca de las preocupaciones y preguntas allí expresadas.

Equatorial Guinea

Llamamiento urgente

787. El 3 de julio de 2009, el Relator Especial, junto con la Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, enviaron un llamamiento urgente sobre el periodista **Sr. Rodrigo Angüe Nguema**, corresponsal de la agencia de noticias France Press.

788. Según las informaciones recibidas, el Sr. Angüe Nguema fue arrestado el 17 de junio de 2009 en la capital, Malabo, por agentes de seguridad vestidos de civil, quienes le esposaron y condujeron a la Prisión Central de Malabo (conocida como “Black Beach”), donde se encuentra compartiendo celda con delincuentes comunes.

789. Se informa que el arresto se produjo porque el periodista no pudo pagar una elevada fianza de 20 millones de Francos CFA (equivalentes aproximadamente a 43,000 dólares de los Estados Unidos de América) tras ser acusado de difamación.

790. Según las informaciones recibidas, el periodista Angüe Nguema escribió un despacho para la agencia France-Press en el que denunciaba el mal uso del dinero perteneciente a una aerolínea ecuato-guineana. El ejecutivo de ésta, Sr. Mamadou Jaye, negó inmediatamente las acusaciones

y denunció al periodista por difamación, reclamando una suma similar a la que aparece en las acusaciones. El periodista reconoció haber cometido un error y la agencia de noticias publicó una nota rectificatoria. Sin embargo el juez de instrucción, Sr. Agustín Chicampo, fijó la fianza y envió al periodista a prisión cuando éste no pudo pagarla.

791. Se afirma que el periodista Angüe Nguema ha sido privado de su libertad en base a una simple denuncia, sin haberse actuado prueba alguna ni haberse considerado la admisión del error cometido y la publicación de una nota rectificatoria.

Observaciones

792. El Relator Especial lamenta que al finalizar este informe, no se había recibido respuestas a comunicaciones de 3 de julio de 2009, 31 octubre de 2006, y 24 de marzo de 2004. El Relator Especial considera que al responder a las comunicaciones representa un elemento fundamental para la cooperación de los Estados con el mandato, es por ello que insta al gobierno a que le proporcione una respuesta tratando los asuntos mencionados.

Eritrea

Letter of allegations

793. On 12 August 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations to the Government in relation to the **arrests, detention and deaths of journalists in Eritrea** since 2001.

794. Information regarding the alleged deaths of Mr. Seyoum Tsehaye (or Fsehaye), Mr. Dawit Habtemichael and Mr. Yusuf Mohamed Ali, as well as the detention of Mr. Medhane Tewelde (also identified as Medhane Haile), Mr. Temesghen Gebreyesus, Mr. Said Abdulkader, Mr. Emanuel Asrat and Mr. Fessehaye “Joshua” Yohannes was the subject of a letter of allegation sent to the Government on 29 November 2006.

795. In addition, a letter of allegation regarding the death of Mr. Fessehaye “Joshua” Yohannes allegedly as a result of the treatment he had received under detention and of very harsh conditions in Dongolo prison was also sent to the Government on 9 March 2007. As yet a response to these letters of allegation has not been received from the Government.

796. According to additional information received, Mr. Said Abdulkader, Founder and Editor of Admas and former journalist with public-owned Haddas Eritrea, was arrested on 20 September 2001 and believed to have died in detention in March 2005.

797. Mr. Medhane Tewelde (or Medhane Haile), former Deputy Editor of Keste Debena, was arrested on 18 September 2001 and detained in cell no.8 in Eiraeiro Prison Camp. It has been reported that he died in February 2006, and that his body has never been handed over to his family.

798. Mr. Mattewos Habteab, Editor and co-Founder of Meqaleh, was arrested on 19 September 2001 and is currently detained in Dahlak Island Prison.

799. Mr. Dawit Isaac, owner and co-Founder of Setit, was arrested on 23 September 2001 and has been detained in an unknown location. He was allegedly moved to a hospital in February 2009 due to serious illness.

800. Mr. Temesghen Gebreyesus and Mr. Emanuel Arsat, whose information was the subject of the letter of allegation dated 29 November 2006; remain under detention in Dahlak Island Prison and Eiraeiro Prison Camp respectively.

801. It has been reported that the journalists were detained in September 2001 as a result of interviewing members of the opposition and reporting on the alleged crackdown against government critics which took place in July 2001. The licenses of all of the country's eight independent newspapers were also reportedly withdrawn in September 2001.

802. Concern was expressed that the continued detention of the above-mentioned journalists as well as the withdrawal of the licenses of independent newspapers might be a direct attempt to stifle freedom of expression in Eritrea.

Observations

803. The Special Rapporteur regrets that, at the time of the finalization of the current report, no response had been received from the Government regarding the letter of allegations sent on 12 August 2009. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

804. The Special Rapporteur remains concerned at the large number of arrests, detention and deaths of journalists in the country since 2001 which has a serious impact on the right to freedom of opinion and expression and the functioning of an independent civil society and media.

Ethiopia

Urgent appeal

805. On 14 January 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding Ms. **Birtukan Mideksa**, aged 34, and leader of the registered opposition party Unity for Democracy and Justice Party.

806. The mandate-holders noted that Ms. Birtukan Mideksa was the subject of two urgent appeals sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the then Special Representative of the Secretary-General on the situation of human rights defenders on 3 November 2005, and by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special

Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders on 18 November 2005.

807. According to information received, on 29 December 2008, Ms. Birtukan Mideksa was arrested by several officers of the security forces and has since then been detained in solitary confinement at Qaliti prison outside Addis Ababa, in a cell measuring 2 m² which is reported to be often unbearably hot.

808. It was believed that her arrest might have been carried out in connection with a trip to Europe in November 2008 during which she discussed the terms of her previous release from prison. Ethiopian Government media reported that she had denied apologizing for the crimes she had allegedly committed and that she was given three days to revoke her statement. Shortly afterwards, the Pardons Board decided to recant her pardon and to re-impose her original life sentence passed in 2007.

809. Ms. Mideksa, together with thousands of individuals including opposition parliamentarians, opposition party leaders, journalists and human rights defenders, had been arrested in 2005 following demonstrations against the results of elections held in May 2005. In 2006, Ms. Mideksa was charged with treason, tried and sentenced to life imprisonment. The majority of those found guilty were released in 2007 following pardons after they had negotiated an agreement with the Government and signed letters of apology. However the exact terms and conditions of pardon remained unclear.

810. Since her arrest, Ms. Mideksa had reportedly been allowed one visit from her close family but had not been granted access to legal counsel or medical treatment. She had refused food to protest against her arrest and detention.

811. During her arrest a person who was with her, Professor Mesfin Weldemariam, was severely beaten by one security officer with a rifle butt. He sustained injuries to his leg as a result of the assault.

812. In view of the reported conditions of detention including solitary confinement, the alleged denial of further family visits and access to legal counsel and medical treatment, concern was expressed for Ms. Birtukan Mideksa's physical and psychological integrity. Further concerns were expressed that her arrest and detention might solely be connected to the reportedly peaceful exercise of her rights to freedom of opinion and expression, association, assembly, and to take part in the conduct of public affairs, directly or through freely chosen representatives.

Response from the Government

813. In a letter dated 12 February 2009, the Government replied to the communication above regarding the case of Ms. Birtukan Mideksa. The Government stated that the revocation of the pardon granted to Ms. Birtukan Mideksa by the government was carried out in accordance with the law in force on the subject, and that the facts concerning the arrest and detention of Ms. Birtukan are flawed. The Government provided further information as follows.

814. Ms. Birtukan Mideksa was arrested and detained according to the law with due regard to her rights under the Constitution and international human rights instruments. Ms. Mideksa is not subjected to special treatment than other prisoners. Ms. Mideksa has not been denied of her right to be visited by her family. Federal Prison Administration reported that since her detention, she has maintained contact with her family, in particular with her mother, daughter and sister on Saturdays and Sundays. The Government is unaware of Ms. Mideksa's refusal of food to protest against her detention. In contrast, her family is providing her with varieties of meal daily.

815. The Government of Ethiopia is cognizant of the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and Treatment of Offenders, which provides for an arrested or detained person right to access a lawyer. This principle is also reflected in the domestic legal system and is guaranteed to any arrested and detained person. Ms. Mideksa is in contact with her lawyer and the allegation that she is denied of her right to consult with her lawyer is incorrect.

816. You have expressed concerns that situation of Ms. Mideksa detention is detrimental to her physical and psychological integrity. The Government respects its obligations to protect the right to physical and mental integrity of all persons under Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Accordingly, Ms. Mideksa is being treated as any other person under the protection of law with due regard to her physical and mental integrity.

817. With regard to your concern that the arrest and detention of Ms. Mideksa is solely connected to the peaceful exercise of her right to freedom of opinion and expression, association, assembly, and to take part in the conduct of public affairs, the Government wants to express that the said allegations are not correct. Let me draw your attention to the fact that there are many groups that are exercising such rights. No one in the country is arrested and detained merely on the ground of exercising sacred rights of human beings, among other things, freedom of expression, association and assembly. The true facts that cause the revocation of the pardon are discussed below.

On legal grounds for arrest and detention of Ms. Mideksa

818. Background: Ms. Birtukan Mideksa and others in the leadership of the former Coalition for Unity and Democracy (CUD) party were granted conditional pardon, after submitting a signed written petition for pardon, on the 19th of July 2007 by the President of the Federal Democratic Republic of Ethiopia on the basis of the procedure of Pardon Proclamation No. 395/2004. It was understood at the outset that the pardon granted would remain valid only as long as they conducted themselves in accordance with the conditions of the pardon they freely accepted.

819. Cause for Revocation: Most of these beneficiaries of the pardon are carrying out their political and social activities in accordance with the laws of the country. However, Ms. Mideksa on different occasions, misrepresented the circumstances of the pardon by making an open statement to her supporters saying "she did not make any plea for pardon" and rather the pardon was granted solely through the intervention of elders and by the pressure of her supporters. In

effect, Ms. Mideksa denied her request for pardon to the Ethiopian Government and the people. She violated the very premise and basis of the pardon by making it manifest she was not remorseful and did not have regrets about her former illegal acts.

820. Specifically she acted in contravention of the first and second conditions of the pardon, namely, acceptance of individual and collective responsibility for the destructive acts committed and to refrain from such acts in the future. By denying that she ever petitioned the government for pardon Ms. Birtukan has in effect disavowed the first condition of the pardon, by which she in effect also disavowed the second condition. As such, violation of any of the condition of pardon in the case of conditional pardon inevitably triggers the provisions of the pardon proclamation relating to revocation of pardon with all its legal consequences.

821. Procedure for the revocation for pardon: Despite this behaviour on the part of Ms. Birtukan and in the hope that the statement by Ms. Birtukan could possibly have been an honest mistake and could be rectified without difficulty, the Federal Police discharging its responsibility of ensuring compliance with the conditions of pardon and protecting the Constitutional order from criminal acts, talked to Ms. Birtukan on more than one occasion about her statement with a view to set the record straight. However, after Police asked her to officially rectify her statement within three days failing which appropriate legal action will be taken to revoke the pardon granted by the government. Again this cooperative gesture on the part of the federal police did not meet with any positive response from Ms. Birtukan.

822. On the legality of the revocation of the pardon: On the basis of the Pardon Proclamation, the Federal Police, having observed Ms. Mideksa's final statements of refusal to rectify her misrepresentation, requested the Board of Pardon for revocation of the pardon. The Board of Pardon, according to the Procedure of Pardon Proclamation, has the power to examine such cases and submit recommendations of revocation to the President when persons granted confidential pardon by the President have allegedly failed to meet such condition or have violated same. The Board, having considered the lapse of time given to her to renounce her denial of pardon and having being convinced of the existence of sufficient ground for revocation, submitted its recommendation to the President of the FDRE for revocation of the pardon. The revocation of the pardon for Ms. Mideksa is fully in line with the procedure provided in the Pardon Proclamation. Due to the conditional nature of the pardon, the penalty of life imprisonment imposed by the Federal high court was reactivated starting from the day of revocation of the pardon.

823. The Government reiterates that Ms. Mideksa has not been deprived of her liberty arbitrarily. Her case was tried in fair proceedings before an independent and impartial court. She was convicted of crimes against the constitutional order and sentenced for life imprisonment. After she has requested the Government and the people for pardon, the Board of Pardon considered her case and recommended to the President to grant her pardon. But she failed to respect the conditions attached to the pardon, which entails its revocation.

Letter of allegations

824. On 21 January 2009, the Special Rapporteur, together with the Special Rapporteur on Violence against Women and the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations to the Government, in relation to concerns about the restrictions to the

effectiveness of human rights organizations in Ethiopia that may result from the adoption of the **“Proclamation for the Registration and Regulation of Charities and Societies”** (hereinafter: “the Proclamation”).

825. The Proclamation was the subject of an urgent appeal sent on 17 July 2008 by the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. No reply has been received to date from your Excellency’s Government to the communication.

826. The Proclamation was adopted on 5 January 2009 by the Ethiopian Parliament. The adoption of the law was preceded by several months’ negotiations during which the draft was subject to amendments.

827. While we consider the stated aim to enhance the transparency and accountability of civil society organization is legitimate, we are of the opinion that the law in its current form will result in serious restrictions on the activities of NGOs working on a host of human rights issues. The strict implementation of the Proclamation would render it nearly impossible for civil society organizations to carry out their work in Ethiopia.

828. The Proclamation establishes three categories of non-governmental organizations (referred to in the Proclamation as “charities” or “societies”): Ethiopian Charities or Societies; Ethiopian Residents Charities and Foreign Charities. Ethiopian Resident Charities are defined as those “formed under the laws of Ethiopia and which consist of members whom all dwell in Ethiopia and who receive more than 10% of their funds from foreign country sources”. Foreign Charities are defined under the provisions of the Proclamation as “Charities that are formed under the laws of foreign countries or which consist of members who are foreign nationals or are controlled by foreign nationals or receive funds from foreign country sources”.

829. As a result of these provisions, even Ethiopian NGOs formed under Ethiopian laws and consisting of Ethiopian members would not be defined as Ethiopian Charities in case they receive more than 10% of their funding from “foreign country sources”. “Income from foreign source” includes any transfer made from a foreign source, including from Ethiopians living abroad. The consequences of the definition are serious, as Foreign and Ethiopian Resident Charities are expressly banned from carrying out any work related to: ‘the advancement of human and democratic rights’; ‘the promotion of equality of nations, nationalities and peoples and that of gender and religion’; ‘the promotion of the rights of the disabled and children’s rights’; ‘the promotion of conflict resolution or reconciliation’; ‘the promotion of the justice and law enforcement services’.

830. The Proclamation expressly bars Ethiopian NGOs which receive more than 10% of their funding from foreign sources from working on the areas listed above. It would also make any work by foreign NGOs in these fields illegal without the written consent of the Ethiopian government. Section 1.3.2 (b) namely provides that the Proclamation shall not be applicable to “international or foreign organizations operating in Ethiopia by virtue of an agreement with the Government of the Federal Democratic Republic of Ethiopia.

831. The Proclamation establishes the Charities and Societies Agency (hereinafter: the Agency) with wide-ranging discretionary powers to refuse to accord legal recognition to NGOs, to disband NGOs that have already been legally recognized, and to subject NGOs to intrusive patterns of surveillance. The Agency will be governed by a Chief Director who will be nominated by the government. The Agency will have a Charities and Societies Board (hereinafter: Board) consisting of seven members, nominated by the government. The powers of the Agency are broad and vaguely defined. For instance, the Agency may refuse to register an NGO if “the proposed Charity or Society is likely to be used for unlawful purposes or for purposes prejudicial to public peace, welfare or the good order in Ethiopia”. In most cases the decisions of the Agency are not subject to the right of appeal. Foreign and Ethiopian Resident Charities have no right to appeal the Agency’s decisions in court.

832. All NGOs, including those already established, are required to register with the Agency within three months of their establishment. The licence shall be renewed every three years. The Agency may “from time to time institute inquiries with regard to Charities or Societies” and may, by order require the NGO or any officer or employee to furnish any information in their possession which relates to any Charity or Society”.

833. The Proclamation also prescribes criminal penalties for administrative infractions. Although the lengthy prison sentences contained in previous drafts of the law had been removed from the final Proclamation as adopted, it still contains a provision which foresees that “any person who violates the provisions of this proclamation shall be punishable in accordance with the provisions of the criminal code”. This provision is extremely vague, especially given that the previous prison sentences foreseen for violations of the Proclamation have been changed into fines.

834. Article 31 of the Ethiopian Constitution guarantees the right to freedom of association “for any cause or purpose” except in cases where organizations are formed “in violation of appropriate laws” or in order to subvert the Constitution. Article 30 of the Constitution guarantees the right to freedom of assembly, and Art 29 guarantees the right to freedom of expression. All of these rights are subject to caveats articulated in the Constitution, but at the same time Art 13 requires that the rights be interpreted “in a manner conforming to the principles of the Universal Declaration of Human Rights, International Covenants on Human Rights and international instruments adopted by Ethiopia”.

835. Several provisions of the Proclamation, especially those restricting the work of foreign and Ethiopian NGOs are not consistent with Art 22 of the International Covenant on Civil and Political Rights and Ethiopia’s Constitution. Furthermore, as a UN member state, Ethiopia is required to uphold the UN Declaration on Human Rights Defenders. The Declaration, which was adopted by the General Assembly by consensus on 9 December 1998, does not contain new rights, but merely articulates existing ones so that it is easier to apply to the practical role and situation of human rights defenders.

Response from the Government

836. The Government responded in a letter dated 16 February 2009 to the communication sent on 21 January 2009. The Government confirmed that the Charities and Societies Proclamation No. 12/2009 was passed by the Parliament. Its principal objectives, as stated in the Proclamation,

are ensuring citizens right to association and aiding and facilitating the role of CSOs in the overall development of the people of Ethiopia. A necessary element in implementing these objectives is ensuring transparency and accountability. While the Government admits that the Rapporteurs basically cited provisions in the Proclamation with accuracy, it noted that it would be hard to agree with the interpretations and implications given to most of the provisions cited in the letter. Statements such as the Proclamations would restrict “effectiveness of human rights organizations”, that the Agency has “powers broad and vaguely defined”, and some of the provisions are “not consistent with Article 22 of the International Covenant on Civil and Political Rights and Ethiopia’s Constitution” are some of the statements which would not accurately describe the word and spirit of the Proclamation.

837. Regarding the Universal Declaration of Human Rights, the Government does not deny the universality of the human rights enshrined in the UDHR. One way or another, and irrespective of the instrument’s formal validity, the Government considers this document to guide human rights standards and implementation in the world. The Government further believes that the two Covenants and other international (and regional) human rights instruments to most of which Ethiopia has subscribed have ensured the interpretation and concrete application of the Declaration. The Government also holds no reservations towards the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. The Government recognizes the Declaration’s objectives of reiteration and calling the attention of all concerned to universal and fundamental human rights standards.

838. With regard to the 2004 report by the Special Representative of the Secretary-General on the situation of human rights defenders (A/59/401), the Government appreciates the “encouragement” the Rapporteurs have extended towards the Government for the implementation of the recommendations on good practices on NGO regulations. While generally the Government does not object the recommendations on good practices adopted by the then Special Representative – and as a matter of fact many of the recommendations are reflected in the new legislation, it should be stressed that the implementation of most of the recommendations requires an ideal situation, which the country finds very hard.

839. For example, the recommendations require registration to be optional. In a developing country like Ethiopia, in a country where self-regulation by charities and societies is mostly non-existent, and a country where the government has yet to devise a mechanism where charities and societies have to answer to their members, contributors and beneficiaries, it would not be easy to imagine charities and societies ride free. Assuming that there is no requirement of registration – which in effect means no requirement of reporting on financial and administrative matters – in what ways, under the country’s present circumstances, is a charity to be accountable. One objective of the Proclamation has been to introduce the rule of law in the formation, operation and dissolution of these organizations. As identified by the Rapporteurs, the Proclamation aims at ensuring transparency and accountability, which were missing in the operation of the society since the time they started operating. The only way to ensure rule of law in the operation of charities and societies in the country is registration and supervision by the Government.

840. While Ethiopian Charities are free to involve in any charitable activity, certain limitations are imposed on non-Ethiopian charities. The restricted charitable activities, listed in the Proclamation, relate to political activities, which the Government believes should not be left to

foreigners and foreign funds. The State is at the early stage of democratization. This process of democratization has to take root in the country and its people before it is exposed to the undue influence of foreigners to the whole political system. Foreigners are normally free in the exercise of human rights in the country. But for the exercise of political rights, natural limitations have to be put in place if the exercise of public affairs is required to be free and the sovereignty and independence of a State and its people are to be maintained. Other activities – activities which do not affect the political system of the country and activities which overlap with the traditional charitable activities – are identified and allowed in the Proclamation. Foreign charities and societies, without discrimination, can engage in those activities.

841. As to the Agency, ensuring accountability and transparency has been one of the motives for the issuance of the legislation. The Agency, which is entrusted with the implementation of the Proclamation, registers and recognizes charities and societies and ensures the observance of the law. In addition to supervision through inquiries and investigation of reports, the Agency may suspend or cancel CSOs that do not abide by the law. But these powers should not lead to the assertions that the Agency has intrusive powers and that the Agency's powers are "broad and vaguely defined". First of all, the Agency has to exercise its powers on the basis of the Proclamation and other laws. The Proclamation provides clear powers and responsibilities of the Agency. These powers given to the Agency are nothing but reasonable in light of the supervisory functions of the Agency. Second, the decisions of the Agency are appealable to the Board of Charities and Societies, which has two representatives of charities and societies as its members. Third, Ethiopian charities and societies are also allowed to appeal to the Federal High Court.

842. In relation to the severity of punishment, "fine" is the only penalty that the Proclamation has introduced. While amount of fine is fixed considering such factors as the gravity of the offence and the ability to pay, the fines provided in the Proclamation, the Government believes, are nothing out of the ordinary. As to other forms of punishment, the Proclamation refers to the Criminal Code. With or without reference, the Criminal Code applies to crimes and punishment without distinction of anyone including charities and societies and officers associated with them. If persons involved in charitable activities commit crimes as defined in the Criminal Code, exclusion of criminal law from the operation of "charitable activities" would be out of reason.

843. As a federal legislation, the Proclamation is issued by the HPR. As in any democratic society, the HPR, which obtains authority from the Constitution, must abide by the Constitution and the international human rights standards zealously embraced by the Constitution. Two of the provisions that caused the concerns of the Rapporteurs are Article 19 on freedom of expression and Article 21 on peaceful assembly. However, the Government finds it hard to see how these fundamental rights are restricted by the Proclamation. The Proclamation does not profess to regulate freedom of expression and assembly. They are regulated by separate legislations, which allow the exercise of those rights without distinction.

844. Regarding freedom of association of Article 22 of the Covenant, the Proclamation takes the "realization of citizen's right to association" as a prime motive in enacting the Proclamation. But still this right should be in line with the fundamentals of political rights. Should foreigners be allowed to form political organizations to exercise their right of association? Obviously the Ethiopian laws, like the laws of any other sovereign State, do not allow political association to foreigners. This is not discrimination. Such prohibitions are associated with the sovereignty of a country, which would be lost if foreigners got engaged in such crucial public affairs.

845. It is the Government's firm belief that the Covenant's reservation of public affairs to citizens (Article 25) is triggered by the traditional concern of sovereignty. Presently political activities are becoming more and more intertwined with other social and charitable activities. Hence caution has to be exercised in allowing foreigners to carry out "charitable" activities lest the State would fall under the influence of external forces. The issue then would be to determine the extent of freedom of association permitted to foreigners and foreign funds. In deciding this delicate matter, the Government has limited the operation of foreign charities on some charitable activities that the Government believes would substantially involve public affairs.

846. The Covenant's rights to freedom of expression, freedom of assembly and freedom of association are the same as the Constitution's. Compatibility with the Covenant's provisions should be presumed to imply compatibility with the Constitution's provisions. The Constitution's article 29 (the right of thought, opinion and expression) and article 31 (the right of assembly, demonstration and petition) are governed by other laws such as Peaceful Demonstration and Public Political Meeting Procedure Proclamation No. 3/1991 – which is in line with the Constitution and international human rights standards ensures the right to peaceful assembly and demonstration – and the Freedom of the Mass Media and Access to Information Proclamation No. 590/2008 – which implements some aspects of the Constitution's freedom of expression.

847. Under Article 31, which is more related to CSOs, the Constitution enshrines the freedom of association for "any cause or purpose". But it also envisages the existence of "appropriate" laws to prohibit some organizations. The Proclamation on CSOs may be considered such a law with regard to foreign CSOs. The appropriateness of prohibition by the Proclamation against the participation of foreign CSOs in some charitable activities should be tested in light of the rights of participation in public affairs. Under the Constitution, participation in public affairs is reserved for citizens. On the basis of the Government's appreciation, the unlimited involvement of foreigners in charitable activities has in the past impaired the free exercise by citizens of their rights to participate in public affairs. As stated before, allowing all "charitable" activities to foreigners would also expose the State to undue influence of its political system. Hence the Government has taken the legitimate measure of limiting involvement of foreigners in the political undertakings of the country.

848. Since the beginning of the Government's desire to overhaul the legal framework for CSOs some ten years back, suggestions on the possible content of a future legislation have been gathered from stakeholders. After preparing the initial draft, the Government tabled the draft for public discussion. Before the final draft was sent to the Parliament, extensive discussions before the Council of Ministers had taken place. A number of consultative meetings with charities and societies had also been conducted. High profile consultative meetings with NGOs chaired by higher officials such as the Minister of Justice, and, even on two occasions, chaired by the Prime Minister himself, are believed to have given NGOS the opportunity to comment on the draft legislation and provide their recommendations. On various occasions, public debate/dialogue with the participation of prominent civil societies, political parties and professionals, aired via national television, was conducted. In the HPR as well, before the passage of the Proclamation, the committee of the House had invited concerned organs especially CSOs for public hearing of their views before the House.

849. Given the number of amendments made on the initial draft on the basis of recommendations from various stakeholders, it is difficult to state the exact extent of

incorporation of the views of CSOs in the final legislation. However, the amendments made on the initial draft mostly owe themselves to the recommendations by civil society. To mention few, the penalty of imprisonment was removed from the final legislation; a third category of “Ethiopian Resident Charities and Societies” was introduced; the possibility of a police officer or an agency or other government official having had the right to attend in all meetings of CSOs was removed; two of the seven members of the Charities and Societies Board, the highest organ of the regulatory Agency, were made to be nominated from Charities and Societies themselves.

Urgent appeal

850. On 15 January 2010, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding the situation of Mr. **Nagga GEZAW**, Mr. **Dhaba GIRRE** and Mr. **Jatani WARIO**.

851. According to the information received, on 5 January 2010, Mr. Nagga GEZAW, a second-year civil engineering students, and Mr. Dhaba GIRRE, a third year management students, were abducted from the Awassa University Campus by members of the security and police forces of the Government of Ethiopia. On 6 January 2010, Mr. Jatani WARIO, a second year student in Cooperation, was taken away from the same security and police forces and with the same modalities. Mr. Nagga GEZAW’s, Mr. Dhaba GIRRE’s and Mr. Jatani WARIO’s fate and whereabouts remain unknown.

852. Concern was expressed that Mr. Nagga GEZAW’s, Mr. Dhaba GIRRE’s and Mr. Jatani WARIO’s enforced disappearances might be the result of their participation in the students’ movement in Gujji/Borena, Zone of Oromia Regional State, protesting against the alleged poisoning and contamination of local rivers and stream waters by uncontrolled and/or unregulated waste products from the activities of the gold mining industry at Lega Dembi.

Observations

853. The Special Rapporteur wishes to thank the Government the detailed response provided regarding the case of Ms. Mideksa and “Proclamation for the Registration and Regulation of Charities and Societies”. However, the Special Rapporteur remains concerned that the latter law significantly restricts the space for independent human rights activity in the country and has a profound effect on the independence of civil society. The Special Rapporteur firmly believes that human rights activities and monitoring, including the denunciation of human rights abuses, should not be considered as political activity and restricted.

Fiji

Urgent appeal

854. On 30 April 2009, the Special Rapporteur sent an urgent appeal to the Government concerning **media crackdown** in Fiji.

855. According to information received, on 10 April 2009, President Ratu Josefa Iloilo declared a State of Emergency a day after an appellate court declared the provisional Government led by Army Chief Commodore Frank Bainimarama to be illegal. In response to the ruling, the

President suspended the constitution, abolished the judiciary and reinstated Commodore Bainimarama as Prime Minister. The thirty-day Public Emergency Regulations stipulated that editors are prohibited from publishing or broadcasting any material that shows the military in an unfavourable light. It also stated that sensitive stories must be approved by Government officials before publication and that media organizations ignoring these directives may be shut down.

856. On 13 April 2009, three foreign journalists, including Sia Aston and photographer Matt Smith from New Zealand's TV3, and Australian Broadcasting Corporation's Sean Dorney, were expelled from Fiji. Journalists in the country were warned not to speak to foreign media about the situation, and there were reports of some who had been summoned by the Ministry of Information and warned to restrict the content of their reporting.

857. Concern was expressed that the aforementioned events may have been a direct attempt to prevent independent reporting in Fiji, thus stifling freedom of expression in the country.

Urgent appeal

858. On 15 September 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding threats against **Mr. Netani Rika**, editor-in-chief of the Fiji Times and winner of the Pacific Islands News Association (PINA)'s 2009 Pacific Media Freedom Award, as well as the situation of media freedom in the Republic of the Fiji Islands.

859. According to information received, on 28 August 2009, Real Fiji News, a pro-government blog, published a statement suggesting that Mr. Rika's life is under threat. On the same day, unidentified visitors allegedly came to his home, and unidentified persons reportedly made calls to his newsroom asking when Mr. Rika would return.

860. Reports claim that Mr. Rika has been subjected to numerous threats in the past, including phone calls from the military demanding his presence at the barracks, after which he was subjected to intimidation by military officers in May 2007, having rocks thrown at his house and car by unknown men, and an attack on his home with home-made petrol bombs in March 2009.

861. Reports also claim that Mr. Evan Hannah, the publisher of the Fiji Times, was deported in May 2008. Mr. Rex Gardener, who replaced Mr. Hannah's position as publisher and chief executive officer of the Fiji Times, was also reportedly deported in January 2009. Several Fiji Times journalists and journalists from other news outlets have also allegedly been detained by the police for writing stories that are critical of the government.

862. Concern was expressed that the recent threat and intimidation against Mr. Rika and other journalists working with the Fiji Times was related to critical reports on the military coup and media sanctions, and that such acts might represent a direct attempt to stifle freedom of opinion and expression in the Republic of the Fiji Islands. Further concern was expressed regarding the physical and psychological integrity of Mr. Rika and journalists in general who voice peaceful criticisms of the government.

863. Concerns regarding the crackdown on media freedom in the Republic of the Fiji Islands were previously communicated to the Government on 30 April 2009 by the Special Rapporteur

on the promotion and protection of the right to freedom of opinion and expression. The communication also addressed concerns regarding the Public Emergency Regulations, which inter alia prohibit editors to publish or broadcast any material that shows the military in an unfavourable light and permit media organizations to be closed down if prior approval to publish sensitive stories is not obtained from the government.

Letter of allegations

864. On 11 December 2009, the Special Rapporteur, together with the Special Rapporteur on the human rights of migrants, sent a letter of allegation to the Government concerning the deportation of Mr. **Brij Lal**, Fiji-born Australian citizen and Professor of Pacific and Asian History at Australian National University.

865. According to information received, on 4 November 2009, during a research visit to Fiji, Mr. Lal made a statement on Australian Broadcasting Corporation Radio regarding the consequences of the expulsion of Australian and New Zealand diplomats by the Government of Fiji on 3 November. On the same day, he was taken by soldiers from his home in Suva to an army camp in Nabua. He was allegedly interrogated by a senior army officer, placed in a dark cell for an hour, verbally abused, and spat at. He was threatened to be taken back to the army camp and killed if he did not leave the country within 24 hours. On 5 November, Mr. Lal left Fiji and arrived in Australia.

866. Concern was expressed that Mr. Lal was arbitrarily detained and forced to leave Fiji as a result of exercising his right to freedom of opinion and expression. Further concern was expressed regarding the deteriorating situation of the right to freedom of opinion and expression in Fiji, particularly in light of recent communications sent to the Government on 15 September 2009 and 30 April 2009, respectively addressing threats against Mr. Netani Rika and the negative impact of Public Emergency Regulations on the right to freedom of expression and the freedom of the press in Fiji.

Letter of allegations

867. On 17 February 2010, the Special Rapporteur sent a letter of allegations regarding the **promulgation of Regulations of Pensions and Retirement Allowances Decree 2009**.

868. According to information received, on 31 December 2009, the Regulations of Pensions and Retirement Allowances Decree 2009 (hereafter the “decree”) was signed by President Epeli Nailatikau of the Republic of the Fiji Islands. The decree came into force on 1 January 2010.

869. Article 2(1) of the decree stipulates that the Prime Minister may order the cessation of any allowance, salary, pension, gratuity, or any other benefit or entitlement if he is satisfied that the person has acted or attempted to:

- (a) Bring hatred or contempt or disaffection against the Government of the Republic of Fiji, or any institution or authority of the Government; or
- (b) Undermine the Government of the Republic of Fiji, or any institution or authority of the Government, or, in any way, to prejudice the order functioning or operation of the Government or any institution or authority of the Government; or

- (c) Promote or incite feelings of ill-will and hostility amongst the different classes of population in Fiji; or
- (d) Bring hatred or contempt or disaffection against the administration of justice or the judiciary; or
- (e) Undermine the administration of justice or the judiciary, or, in any way, to prejudice the orderly functioning or operation of the judiciary; or
- (f) Incite communal antagonism or racial discontent or disaffection amongst the inhabitants of Fiji or against the Government of the Republic of Fiji, or any institution or authority of the Government.

870. The decree applies to individuals who are entitled or eligible to receive allowances, salaries, or pensions under Parliamentary Retirement Allowances Decree 1989, the Prime Minister's Pensions Act 1994, the Judges' Remuneration and Emoluments Act, and the Pensions Act 1983 (Article 2(1)). Such individuals include former Prime Ministers, ministers, senators, parliamentarians, judges and senior civil servants.

871. Article 4 further states that "no court, tribunal, commission or any other adjudicating body shall have the jurisdiction to accept, hear, determine or in any other way entertain, any challenges whatsoever (including any application for judicial review) by any person or body, or to grant any remedy to any person or body, in relation to the validity, legality or propriety of any action, decision or order of the Prime Minister under this Decree."

872. On 19 January 2010, former Prime Minister Mr. **Sitiveni Rabuka** had his pension suspended and his official vehicle taken by soldiers who came to his home. He had allegedly received a letter from the Prime Minister's Office explaining the decision. Former senator of the Soqosoqo Duavata ni Lewenivanua (SDL) Party Mr. **Tomasi Kanailagi** has also allegedly received a similar letter from the Prime Minister's Office, as well as several former parliamentarians, ministers, senators and senior civil servants who are currently receiving Government pension.

873. Concern was expressed that the promulgation and implementation of the decree constitute a further attempt to silence criticisms of the Government of the Republic of Fiji, thereby undermining individuals' right to freedom of opinion and expression in the country.

Observations

874. The Special Rapporteur regrets that at the time of finalizing the present report, the Government had not transmitted a reply to his aforementioned communications as well as to all his previous communications sent on 14 April 2008, 31 March 2008, 14 August 2007, and 29 January 2007 (twice). He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and to provide detailed information regarding investigations undertaken to prosecute the perpetrators as well as measures taken to prevent the reoccurrence of violations of the right to freedom of opinion and expression.

875. The Special Rapporteur also remains concerned regarding increased restrictions to the right to freedom of opinion and expression in Fiji.

Gabon

Appel urgent

876. Le 7 janvier 2009, le Rapporteur spécial, conjointement avec la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire et la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, a envoyé un appel urgent au Gouvernement concernant la situation de **MM. Gregory Ngbwa Mintsa**, plaignant dans l'affaire des « Biens Mal Acquis » initiée en France, **Marc Ona Essangui**, Coordinateur pour le Gabon de la campagne « Publiez Ce Que Vous Payez » qui milite pour une gestion transparente des revenus des industries extractives, **Georges Mpaga**, Président du Réseau des Organisations Libres de la Bonne Gouvernance au Gabon, **Dieudonné Koungou**, journaliste au bimensuel privé Tendence Gabon et **Gaston Asseko**, Directeur technique de la radio Sainte-Marie appartenant à l'Eglise catholique.

877. Selon les informations reçues, les 30 et 31 décembre 2008, MM. Gregory Ngbwa Mintsa, Marc Ona Essangui, Georges Mpaga, Dieudonné Koungou et Gaston Asseko auraient été arrêtés à Libreville par des agents des services de renseignement. Aucun mandat n'aurait été produit lors de cette arrestation. Les cinq personnes auraient été conduites dans les locaux de la police judiciaire de la ville et n'auraient à ce jour pas eu accès à un avocat. Les charges retenues contre elles ne sont pas connues.

878. Par ailleurs, il est allégué que M. Gaston Asseko, qui aurait récemment subi une intervention chirurgicale et devrait prendre correctement un traitement postopératoire, ainsi que MM. Marc Ona Essangui, Georges Mpaga et Dieudonné Koungou, seraient détenus torsés nus dans un sous-sol humide. Quant à M. Gregory Ngbwa Mintsa, celui-ci souffrirait d'œdèmes sur les membres inférieurs.

879. Des craintes ont été exprimées quant au fait que l'arrestation et la détention de MM. Gregory Ngbwa Mintsa, Marc Ona Essangui, Georges Mpaga, Dieudonné Koungou et Gaston Asseko soient liées à leurs activités non-violentes de défense des droits de l'homme, en particulier leur travail sur le thème de la bonne gouvernance et de la transparence financière. Des craintes sont également exprimées pour l'intégrité physique et morale des cinq détenus.

Réponse du Gouvernement

880. Par une lettre en date du 23 février 2009, le Gouvernement a indiqué que le Ministre de l'intérieur a saisi le Procureur de la République sur la base d'informations relatives à des actions en cours et en préparation, tendant à porter atteinte à la sécurité et à la stabilité des institutions. Une enquête préliminaire a été ouverte par le Procureur de la République et a abouti à l'interpellation, le 31 décembre 2009, de MM. Marc Ona Essangui, Gregoire Ngbwa Mintsa, Gaston Asseko Mba, Bernard Poathy (journaliste), Léon Dieudonné Koungou et Georges Mpaga. Les personnes amenées ont été, pour certaines, auditionnées et relâchées, et pour d'autres, auditionnées et gardées en vue dans les locaux de la Police judiciaire pendant 72 heures pour les besoins de l'enquête et ce, conformément aux dispositions pertinentes du Code de

procédure pénale gabonais. M. Léon Dieudonné Koungou a été remis en liberté. Il est important de souligner qu'en ce qui concerne la durée de la garde à vue, les jours fériés ne sont pas pris en compte.

881. Suite aux résultats de l'enquête préliminaire, MM. Ona Essangui, Ngbwa Mintsia, Asseko Mba, Poathy et Mpage ont été présentés au Juge qui les a mis en examen. Ces quatre personnes ont été inculpées pour détention de documents en vue de leur diffusion dans un but de propagande écrite, aux fins d'incitation à la révolte contre les autorités de l'Etat, conformément aux dispositions des articles 88, 89 et 90 du Code pénal gabonais. Les chefs d'inculpation retenus constituent des infractions pénales prévues et punies par lesdits articles. Le 7 janvier 2009, les personnes inculpées ont été placées sous mandat de dépôt et déferées à la maison d'arrêt de Libreville. A la demande de leurs avocats, Me Rufin Nkoulou Ondo et Me Bertrand Homa Moussavou du Barreau gabonais, les prévenus ont bénéficié d'une mise en liberté provisoire le 12 janvier 2009, assortie d'une interdiction de sortie du territoire jusqu'au terme de l'instruction de l'affaire. Pendant la durée de leur garde à vue, et tout au long de la phase d'instruction de l'affaire, les prévenus ont eu droit à la visite de leurs avocats et ont pu s'entretenir avec ces derniers sans la moindre entrave. Les prévenus n'ont subi aucune torture ou sévices, ni traitements inhumain, cruel ou dégradant.

882. Me Thierry Levy, avocat au barreau de Paris, qui aurait été mandaté par certaines familles des détenus aux côtés de Me Nkoulou Ondo, a sollicité le 6 janvier 2009, du Consulat général du Gabon en France, un visa d'entrée au Gabon en vue de participer à la défense des prévenus. La seule pièce figurant dans sa demande de visa étant un carnet de vaccination, sa requête a été invalidée pour non-conformité aux dispositions de l'article 2 de la Convention franco-gabonaise de 1992, relative à la circulation des personnes. Notification a été faite à l'intéressé de compléter son dossier selon les stipulations susmentionnées, auprès du Consulat du Gabon, pour un réexamen de sa requête.

Appel urgent

883. Le 7 octobre 2009, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, a envoyé un appel urgent concernant la situation de **MM. Jonas Moulenda et Albert Yangari**. M. Moulenda est journaliste au quotidien « L'Union » et M. Yangari directeur de publication du même journal.

884. Selon les informations reçues, le 26 septembre 2009, le domicile de M. Moulenda aurait été perquisitionné par trois agents des services de sécurité en tenue civile. Ces derniers auraient emporté l'agenda de M. Moulenda qui contenait son répertoire téléphonique, des adresses et des notes.

885. Il est allégué que lors de cette perquisition un hélicoptère faisait la ronde au dessus du quartier de M. Moulenda tandis que des éléments du régiment de parachutistes gabonais s'étaient postés à l'entrée de la rue menant à son domicile.

886. Le même jour, craignant d'être arrêté par les services spéciaux des forces armées gabonaises, M. Moulenda se serait réfugié dans une ambassade à Libreville.

887. Il est allégué que cette perquisition serait liée à la publication par M. Moulenda d'une série de reportages contestant le bilan officiel de trois morts lors des émeutes post-électorales qui ont secoué Port-Gentil du 3 au 6 septembre 2009. La série d'articles, publiée du 20 au 24 septembre 2009, ferait état de 22 morts, de corps emportés par des militaires vers des destinations inconnues et de la possible existence d'un charnier.

888. Par ailleurs, le 25 septembre 2009, M. Yangari aurait été interpellé par les services spéciaux des forces armées gabonaises pour avoir laissé M. Moulenda publier ces articles. Ces derniers auraient exigé de M. Yangari qu'il leur indique où trouver M. Moulenda.

889. Des craintes ont été exprimées quant au fait que cette perquisition au domicile de M. Moulenda ainsi que l'interpellation de M. Yangari soient liées à leurs activités non violentes de promotion et de protection des droits de l'homme. Compte tenu des circonstances ayant entouré cette perquisition et de la fuite de M. Moulenda, des craintes ont également été exprimées quant à son intégrité physique et psychologique.

Observations

890. Le Rapporteur spécial remercie le Gouvernement pour sa réponse en date du 23 février 2009, mais regrette, au moment de la finalisation du présent rapport, l'absence de réponse à sa communication du 7 octobre 2009, 19 octobre 2006, 22 août 2005 et 11 mars 2004. Il considère les réponses à ses communications comme partie intégrante de la coopération des gouvernements avec son mandat. Il exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celles-ci, notamment en fournissant des informations précises sur les enquêtes menées afin de traduire en justice les auteurs des faits et les mesures de protection prises.

Gambia

Urgent appeal

891. On 20 March 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government regarding the situation of Mr. **Halifa Sala**, leader of the opposition party National Alliance for Democracy and Development, and publisher of pro-opposition Foroyaa Newspaper.

892. According to information received, on 8 March 2009, Mr Halifa Sala was reportedly arrested for "spying, sedition and holding an unlawful assembly with intent to bring hatred or contempt or excite disaffection against the Government", following a fact-finding tour of the village of Makumbaya where armed military men masquerading as witch hunters allegedly abducted villagers.

893. On 11 March 2009, Mr Halifa Sala was not able to fulfill the bail conditions set by the magistrate at the Court hearing, and remained in detention.

Letter of allegations

894. On 8 July 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations concerning the detention of trade union leaders and journalists **Ms. Sarata Jabbi-Dibba, Mr. Emil Touray and Mr. Pa Modou**

Faal, Vice-President, Secretary General and Treasurer respectively of the Gambia Press Union (GPU), **Mr. Sam Sarr**, Editor, **Mr. Abubacarr Saidykhan**, reporter with the opposition newspaper Foroyaa, **Mr. Ebrima Sawaneh**, News Editor, and **Mr. Pap Saine**, Managing Editor with the Point newspaper.

895. According to information received, on 12 June 2009, a statement published by the Gambian Press Union (GPU) in The Point and Foroyaa newspapers criticized President Yahya Jammeh for his denial of any alleged State involvement in the murder of prominent Gambian journalist Deyda Hydera, who was killed by gunmen in his car on the outskirts of Banjul in December 2004. The GPU statement further linked the poor state of media freedom in the country to state-sponsored harassment and intimidation of journalists. The President's remarks were made during an interview broadcast on Government television GRTS on 8 June.

896. On 15 June 2009, Ms. Sarata Jabbi-Dibba, Mr. Emil Touray and Mr. Pa Modou Faal were summoned by the Gambian National Intelligence Agency (GNIA) in Banjul for questioning in relation to the aforementioned GPU statement and they were subsequently arrested. On the same day, NIA officers in plain clothes arrested Mr. Sam Sarr, Mr. Abubacarr Saidykhan, Mr. Ebrima Sawaneh, and Mr. Pap Saine in Banjul.

897. On 18 June 2009, the seven journalists appeared at Kanifing Police Court where they were charged with "conspiracy to publish seditious publication", contrary to Section 368 of the Criminal Code, and "publishing seditious publication", contrary to Section 51 sub-Section one (A) and (C) of the Criminal Code. Mr. Touray, Mr. Modou Fall, Mr. Saine, Mr. Sawaneh, Mr. Sarr and Mr. Saidykhan were then taken to Banjul's Mile Two prison. Ms. Sarata Jabbi-Dibba was released on bail of 200,000 dalasis, and her colleagues were granted bail four days later. All are due to appear in court on 7 July 2009.

898. Concern was expressed that the aforementioned events might represent a direct attempt to prevent independent reporting in Gambia thus stifling freedom of expression in the country.

Urgent appeal

899. On 12 August 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding the sentencing of **Mr Emil Touray**, Secretary General; **Mr Sarata Jabbi Dibba**, Vice President and **Mr Pa Modou Faal**, Treasurer of the Gambian Press Union (GPU); **Mr Pap Saine** and **Mr Ebou Sawaneh**, publisher and editor of Point newspaper and **Mr Sam Sarr**, editor of Foroyaa newspaper.

900. According to information received, on 6 August 2009, Mr Emil Touray, Mr Sarata Jabbi Dibba, Mr Pa Modou Faal, Mr Pap Saine, Mr Ebou Sawaneh and Mr Sam Sarr were convicted on six counts of sedition and defamation and sentenced to a mandatory sentence of two years' imprisonment and fined 250,000 Dalasis (US\$10,000) on two of the six counts. Failure to pay will result in having to serve two extra years for each count. The journalists are reportedly being detained at Mile 2 State Central Prison in Banjul pending appeal. The trial of the six journalists was reportedly held behind closed doors, allegedly for state security reasons.

901. On 15 June 2009, the six journalists were arrested along with Foroyaa reporter Abubakar Saidykhan, by members of the National Intelligence Agency (NIA) and detained without charge for three days at the NIA headquarters in Banjul. On 18 June, they appeared in court and, without legal representation, were charged with “seditious publication”.

902. The arrests and subsequent prosecution of the aforementioned journalists stem from the publishing of a Press Union statement in *The Point* and Foroyaa’ on 11 June 2009 that criticized President Yayha Jammeh for making “inappropriate” comments during a interview on State television. During the interview, aired on state-run Gambia Radio and Television Service on 8 June, the President was reportedly questioned about the unsolved murder of Point Editor Deyda Hydara in 2004. During the interview President Jammeh reportedly said that the Government investigation into the killing of Mr Hydara had been delayed. The GPU statement also called on President Jammeh to acknowledge the Government’s responsibility for the killing, which the President had denied in another interview a few days earlier.

903. Mr. Saine reportedly suffers from a heart condition and is in urgent need of a pacemaker.

904. Concern was expressed that the aforementioned prosecution and subsequent imprisonment of Mr Emil Touray, Mr Sarata Jabbi Dibba, Mr Pa Modou Faal, Mr Pap Saine, Mr Ebou Sawaneh and Mr Sam Sarr might represent a direct attempt to prevent independent reporting in the Gambia, thus stifling freedom of expression in the country.

Urgent appeal

905. On 29 September 2009, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding the recent speech of the **President of the Gambia, Colonel A.J.J Jammeh, allegedly threatening human rights defenders and anyone who seeks to “destabilise” the country.**

906. According to the information received, on 21 September 2009, President Jammeh delivered a speech on the state-owned Gambia Radio and Television Services (GRTS), where he allegedly threatened to kill human rights defenders in the Gambia, together with anyone who seeks to “destabilise” the country. Some excerpts of his speech read as follows: “What I want to make very clear to everybody and those so-called human rights campaigners is that I will never allow anyone to destabilise this country. [...] If you think that you can collaborate with so-called human rights defenders, and get away with it, you must be living in a dream world. I will kill you, and nothing will come out of it. If you are affiliated with any human rights group, be rest (sic) assured that your security is not guaranteed by my Government. We are ready to kill saboteurs.”

907. Deep concern was expressed for the physical and psychological integrity of all human rights defenders in the Gambia, including all personnel and persons working with the African Commission on Human and Peoples’ Rights, which has its headquarters in Banjul, and which was to hold its 46th ordinary session from 11 to 25 November 2009. The content of the speech was of particular concern as it followed a recent case of six journalists who were arrested and sentenced to two years of imprisonment and fined 250,000 Dalasis (US\$10,000) for criticizing the government regarding the lack of investigation into the murder of journalist Mr. Deydra

Hydara, which was the subject of our urgent appeal sent to your Excellency's government on 12 August 2009. While the Special Rapporteurs welcomed the fact that the journalists were later released on a presidential pardon, they remain concerned that the right to freedom of opinion and expression is being stifled in the Gambia and that all persons who voice criticism of the government are now exposed to heightened risk to their physical and psychological integrity.

Observations

908. The Special Rapporteur regrets that at the time of finalizing the present report, the Government had not transmitted a reply to the aforementioned communications as well as to those sent on 14 April 2008, 1 April 2008, 11 October 2007, 7 June 2006, 11 April 2006, 28 December 2004, 20 December 2004 and 23 January 2004. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

909. As stated in a press release dated 9 October 2010, jointly with Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on human rights defenders from the African Commission on Human and Peoples' Rights, the Special Rapporteur was deeply disturbed by statements attributed to President Jammeh made on 21 September 2009.

910. He urges again the Gambian authorities to take all necessary steps to ensure the protection by all relevant authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration on Human Rights Defenders.

911. He further urges again the Gambian Government to take all necessary steps to secure the right to freedom of opinion and expression of all persons, including human rights defenders in the Gambia, in accordance with fundamental principles as set forth in article 19 of the Universal Declaration of Human Rights, and reiterated in article 19 of the International Covenant on Civil and Political Rights.

Guatemala

Llamamiento urgente

912. El 15 de enero de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con las amenazas en contra del **Sr. Fredy Peccerelli**, director de la Fundación de Antropología Forense de Guatemala (FAFG), el **Sr. Gianni Peccerelli**, hermano de Fredy Bert Peccerelli, la **Sra. Bianka Monterroso**, hermana de Fredy Peccerelli, el **Sr. Omoni Girón**, coordinador de laboratorio de la FAFG y esposo de la Sra. Bianka Peccerelli Monterroso.

913. El Sr. Peccerelli y la FAFG ya fueron objeto de varias comunicaciones de la Relatora Especial sobre la situación de los defensores de derechos humanos, Sra. Margaret Sekaggya que

envió una carta el 28 de mayo del 2008, y de su predecesora Hina Jilani, que envió cartas el 27 de julio del 2002 (E/CN.4/2003/104. Add.1 párrafo 224), el 19 de agosto del 2003 (E/CN.4/2004/94/Add.3, párrafo 194), el 16 de septiembre del 2005 (E/CN.4/2006/95/Add.1, párrafo 213) y el 21 de marzo del 2006 (A/HRC/4/37/Add.1, párrafo 289).

914. La FAFG se dedica a investigaciones forenses y a la exhumación de cadáveres de personas enterradas en fosas secretas durante el conflicto interno de Guatemala.

915. Según las informaciones recibidas, el 8 de enero de 2009, a la 13h13, se habría enviado al Sr. Fredy Peccerelli un mensaje de correo electrónico que contenía amenazas de muerte en contra de él y de su hermano. El supuesto texto del mensaje que es conocido por la Relatora Especial, decía que individuos desconocidos estaban siguiendo al Sr. Fredy Peccerelli y que iban a matar sus hermanos. Se escribía que se habían adjuntado fotos al correo electrónico para que el Sr. Fredy Peccerelli tomara en serio las amenazas.

916. El Sr. Omar Bertoni Girón habría sido copiado en este correo electrónico en el que se adjunta una foto del coche del Sr. Gianni Peccerelli aparcado en una gasolinera situada cerca de donde viven el Sr. Fredy Peccerelli y el Sr. Gianni Peccerelli. La foto estuviera sellada con fecha del 5 de enero del 2009. Habría sido tomado cuando el Sr. Gianni Peccerelli estaba haciendo diligencias con su guardaespaldas.

917. El 12 de enero de 2009, los mismos defensores habrían recibido otro correo electrónico amenazante. El supuesto texto, el cual es conocido por la Relatora Especial, decía que se estaban vigilando a la Sra. Bianka Monterroso, la esposa de Sr. Omar Bertoni Girón y a su hija. Según los informes decía: “Esto les dira. Omar tu esposa se mira muy bien de rojo con tu hija. Hoy los vimos frente a la FAFG.” Luego decía que iban primera a matar los hermanos del Sr. Fredy Peccerelli y luego él mismo.

918. La descripción de la hermana del Sr. Peccerelli correspondía con la vestimenta del día y con le había hecho momentos antes de recibir el mensaje.

919. Se expresó temor que la amenaza en contra del Sr. Fredy Peccerelli, de su hermano, Sr. Gianni Peccerelli, y del Sr. Omar Bertoni Girón podría estar relacionada con el trabajo del de investigación de los crimines del pasado y, más en general, en cuestiones de justicia y derecho a la verdad. Asimismo, se expresó preocupación que los integrantes de la FAFG han sido amenazados desde hace varios años sin que se hayan procesado o condenado a los responsables de las amenazas. Además se alegó que la protección proporcionada fue insuficiente.

Respuesta del Gobierno

920. En una carta fechada el 4 de marzo de 2009 el Gobierno respondió al llamamiento urgente confirmando que las alegaciones presentadas en la misma fueron exactas.

921. Según la carta, el Ministerio Público y Ministerio de Gobernación realizaron las investigaciones necesarias en relación con este caso y la Comisión Presidencial informará en su próxima comunicación los resultados de las mismas.

922. Sin embargo, el Estado consideró importante indicar que a pesar de considerar exactos hechos, toda vez que los mismos fueron denunciados, se encuentran en investigación con el fin de establecer su origen y los autores responsables de éstos.

923. Se informó que el Sr. Fredy Peccerelli y su familia presentaron denuncias a la Fiscalía de Delitos cometidos Contra Activistas de Derechos Humanos del Ministerio Público, quien realiza la investigación correspondiente ante el Juez Segundo de Primera Instancia Penal, Narcoactividad y Delitos Contra el Ambiente del Departamento de Guatemala. La carta comunicó también que el Sr. Fredy Peccerelli entregó al Ministerio Público el correo impreso y la fotografía mencionados en el llamamiento urgente. El denunciante indicó que la fotografía fue enviada el 9 de enero, en la que aparece el vehículo de su hermano Gianni y aclaró que la primera vez dicha fotografía tenía fecha 5 de enero de 2009, y por daños sufridos en el vehículo, estima que la fotografía pudo ser del 13 de diciembre de 2008.

924. La carta proporcionó información en relación con las investigaciones y diligencias iniciadas en relación al caso. Se informó que, entre otras cosas, se tomó declaración del Sr. Fredy Peccerelli y del Sr. Omar Bertoni Girón y se entrevistó con Fredy Peccerelli en varias ocasiones. Asimismo, se citó verbalmente a la Sra. Jeannette Peccerilli prestar declaración.

925. Además, se identificó el lugar donde fue tomada la fotografía enviada y se estableció que en el lugar indicado existen cámaras de video de seguridad, instaladas en la gasolinera Shell Santa Elisa, Av. Petapa 32-69 de la zona 12. Posteriormente, el Ministerio Público solicitó a autoridades de la gasolinera las grabaciones de las cámaras de seguridad para la investigación y se practicó inspección de la memoria de equipo de cómputo donde obran las grabaciones de las cámaras de televisión de seguridad de esa estación, procediendo a obtener copia de las mismas. Se informó que se practicaron diligencias de investigación para identificar e individualizar a la persona que se observa en el video tomando la fotografía, entre estas diligencias se tomaron las declaraciones de los Sres. Augusto Gabriel Saguil (agente de seguridad) y Fredy Armando Peccerelli Monterroso, la persona que aparece es el Sr. Gianni Peccerelli Monterroso.

926. Asimismo, se informó que el Técnico en Informática del Ministerio Público determinó los IP (direcciones electrónicas) utilizados para enviar cada uno de los correos electrónicos, así como las empresas a los que les han asignado los mismos. En virtud de que los propietarios y usuarios de los IP, origen de los correos electrónicos pertenecen a empresas privadas que prestan ese servicio, se solicitó autorización judicial para solicitarle: nombre del usuario que contrató el servicio, servidor utilizado, dirección y región donde está instalado y cualquier otro dato que ayude a la investigación.

927. La carta comunicó también que se citó al Sr. Gianni Paolo Peccerelli Monterroso para prestar declaración en varias ocasiones y al final, el 28 de enero de 2009, compareció a prestar declaración.

928. Se comunicó también que se citó a los agentes de Policía Nacional Civil que prestan seguridad a las instalaciones de la Fundación de Antropología de Guatemala, no habiendo comparecido.

929. Se solicitó al registro fiscal de vehículos, traspasos y modificaciones a la Superintendencia de Administración Tributaria SAT, informe sobre datos del vehículo así como los datos de propiedad, indicando la SAT que dicho vehículo pertenece al Sr. Roberto Estuardo De León Gálvez.

930. En relación con las medidas de protección adoptadas en este caso se informó que el Estado de Guatemala ha mantenido la seguridad de las personas relacionadas a este caso, aplicando mecanismos de protección en base el requerimiento que hiciera la Corte Interamericana de Derechos Humanos, quien otorgó medidas provisionales a favor del Sr. Peccerelli Monterroso y su familia, así como a antropólogos y miembros de la Fundación de Antropología Forense de Guatemala, el 24 de abril de 2006.

931. Se informó que el Sr. Peccerelli Monterroso y familia, así como los demás integrantes de la Fundación de Antropología Forense tenían asignados 24 elementos de seguridad pertenecientes a la División de Protección a Personalidades de Sub Dirección General de Unidades Especialistas y a la División de Protección y Seguridad de la Subdirección General de Seguridad Pública, ambas de la Policía Nacional Civil, proporcionándoles seguridad de tipo personal al Sr. Peccerelli Monterroso y su familia, así como a dos de sus antropólogos colaboradores. Aunado a lo anterior, se le brinda seguridad de puesto fijo en la sede de la Fundación de Antropología Forense de Guatemala FAFG.

932. Asimismo, se informó que el caso es analizado, investigado y evaluado constantemente por la Instancia de Análisis de Ataque contra Defensores de Derechos Humanos en Guatemala, adscrita al Viceministerio de Seguridad del Ministerio de Gobernación, creada por Acuerdo Ministerial No. 103-2008, publicado el 23 de enero de 2008.

933. Según la carta, las investigaciones de todos los hechos denunciados desde el 2002 por el Sr. Freddy Armando Peccerelli Monterroso, sus familias y por otros miembros de la Fundación de Antropología Forense, aún son investigados por la Fiscalía de Delitos contra Activistas de Derechos Humanos, de conformidad con la legislación penal guatemalteca, en las que se han logrado resultados parciales, que hasta el momento no han permitido formular alguna acusación, pero se están incorporando nuevos elementos de investigación que permitan concluir la misma, razón por la cual este procedimiento aún se encuentra en su etapa preparatoria.

934. El Estado de Guatemala expresó su opinión de que los mecanismos de protección aplicados a favor del Sr. Peccerelli, familia y miembros de la Fundación de Antropología Forense de Guatemala han sido efectivos toda vez que no se ha manifestado hecho físico que atente contra la vida, seguridad, libertad u otras derechos humanos y libertades reconocidos. El Estado manifestó su intención de continuar brindando estas medidas para salvaguardar la vida e integridad de los beneficiarios.

Carta de alegaciones

935. El 30 de enero de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron una carta de alegaciones señalando a la atención urgente del Gobierno la información recibida en relación con el asesinato

de los Sres. **Amado Corazón Monzón**, dirigente del Movimiento de Comerciantes Unidos de las Calles de Coatepeque (MCUCC), y **Armando Donald Sánchez Betancurt**, abogado independiente y asesor del Comité de Unidad Campesina (CUC) y del MCUCC.

936. Como dirigente del MCUCC, el Sr. Amado Corazón Monzón había liderado el movimiento de protesta contra el proyecto de traslado de los comercios tradicionales de Coatepeque al nuevo centro de mayoreo. El Sr. Armando Donald Sánchez Betancurt habría trabajado conjuntamente con el Sindicato de Vendedores del Mercado en la solicitud de amparos para evitar sus desalojos y con el CUC en el movimiento de resistencia.

937. El conflicto por la ubicación futura del mercado municipal data de 1993 y afecta a más de 5.000 comerciantes de las calles. Los vendedores se oponen a este traslado puesto que no solamente comprometería sus puestos de trabajo sino que además, el nuevo emplazamiento para sus comercios está supuestamente contaminado y pondría en peligro la salud de los trabajadores. Se han dictado varias órdenes de desalojo, y los comerciantes han obtenido mandamientos judiciales contra ellas. Algunos comerciantes han protestado, y, en octubre de 2008, el gobierno nacional decretó el estado de emergencia en Coatepeque.

938. Según las informaciones recibidas, el 12 de enero de 2009, aproximadamente a las 06h00, unos desconocidos habrían matado al Sr. Amado Corazón Monzón, dirigente del MCUCC, cuando abría su tienda de alimentación. Le habrían disparado tres veces en la cabeza.

939. El 23 de diciembre de 2008, unos desconocidos habrían disparado cuatro tiros al abogado Armando Sánchez, y lo mataron, cuando aparcaba su automóvil. Su homicidio se produjo tras una fallida negociación entre el MCUCC y el gobierno local.

940. Dos días antes, el 21 de diciembre de 2008, en un discurso que se retransmitió en dos emisoras de radio locales, el Alcalde de Coatepeque, supuestamente dijo: “los comerciantes van a tener una linda sorpresa el 23 o 24”.

941. En visto de lo aquí resumido se expresó temor que los muertes de los Sres. Armando Donald Sánchez Betancurt y Amado Corazón Monzón podrían estar relacionadas con su trabajo legítimo en defensa de los derechos de los trabajadores. Se expresó preocupación por los otros 20 dirigentes del MCUCC que según la información recibida corren peligro.

Llamamiento urgente

942. El 23 de marzo de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con las amenazas contra el Sr. **Leocadio Juracán Jalomé**, coordinador del Comité Campesino del Altiplano (CCDA).

943. El CCDA trabaja en temas relacionados con el desarrollo rural y el apoyo al trabajo de los campesinos campesinas guatemaltecas. Los programas que desarrolla el Comité en el trabajo son proyectos para la soberanía alimentaria y desarrollo rural; y que apoya programas de un nuevo modelo de organización campesina, el empoderamiento organizativo de la mujer y la

transformación y comercialización de la producción y servicios sociales. El Sr. Juracán Jalomé además es miembro del Consejo Político del movimiento Sindical, Indígena y Campesino Guatemalteco (MSICG).

944. Según la información recibida, el 26 de febrero de 2009, aproximadamente a las 11h30, el Sr. Juracán Jalomé habría recibido una llamada a su teléfono móvil en la cual un hombre sin identificar le habría dicho: “Estoy haciendo una investigación secreta y quiero hablar contigo inmediatamente; estás discriminando y manipulando a los campesinos, haciendo mal uso del cargo que tenés [sic.] como dirigente, en este momento hay una persona de lentes que está poniendo una denuncia en contra tuya, quiero saber en donde estas para que arreglemos cuentas”. Cuando Leocadio Juracán Jalomé habría preguntado dónde se podría reunir con su interlocutor, éste le habría dicho que fuera a Escuintla, una ciudad en el suroeste de Guatemala. Luego, la conversación habría quedado interrumpida. La Fiscalía de Derechos Humanos habría sido informada de este suceso.

945. Con anterioridad a la mencionada conversación telefónica, el 19 y el 22 de febrero de 2009, el Sr. Juracán Jalomé habría participado en conferencias de prensa para promocionar los derechos indígenas y laborales. El 23 de febrero de 2009, habría asistido a una reunión en relación con la ratificación del Convenio 175 de la Organización Internacional del Trabajo (OIT). Recientemente, el CCDA también habría apoyado la construcción de viviendas en su comunidad. El 19 de febrero en conferencia de Prensa el Sr. Juracán Jalomé habría emplazado políticamente al Gobierno para ejecute acciones que terminen con la violaciones a los derechos humanos y los desalojos de varias comunidades y habría demandado el cumplimiento de las promesas hechas por las autoridades en presentar la iniciativa de Ley de Desarrollo Rural al Congreso de la República por el presidente en la presentación de su informe anual.

946. El año pasado habría recibido a una delegación de estudiantes de los Estados Unidos de América que llegó con la intención de construir viviendas en la aldea. Según se informa, una organización que dice llamarse Fundación Familia habría escrito a la escuela de la aldea para solicitar la misma ayuda que el CCDA había recibido. Dicha organización habría sido investigada y se habría descubierto que no existía en la región.

947. El 30 de abril de 2008, el Sr. Juracán Jalomé habría sido víctima de un ataque, mientras se habría dirigido a bordo de un vehículo de Panajachel a San Lucas Tolimán. Estos hechos, que habrían sido denunciados ante el Ministerio Público Local pero no habrían sido investigados, ocurrieron después de que el Sr. Juracán Jalomé regresara de un viaje a Europa, durante el cual presentó varias denuncias.

948. El 26 de marzo de 2006, la sede del CCDA habría sido objeto de un allanamiento, durante el cual habría sido sustraído material informático con informaciones importantes.

949. En vista de lo aquí resumido, se expresó preocupación por la integridad física y psicológica del Sr. Juracán Jalomé y los miembros del CCDA. Se expresó temor que las amenazas en contra dicho defensor podrían estar relacionadas con su trabajo legítimo en defensa de los derechos humanos en Guatemala.

Llamamiento urgente

950. El 9 de abril de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la independencia de magistrados y abogados, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con el secuestro de la Sra. **Gladis Elizabeth Monterroso Velásquez de Morales**, las amenazas de muerte contra su esposo, el Dr. **Sergio Morales**, Procurador de los Derechos Humanos de Guatemala, y los ataques contra el Licenciado **Luis Roberto Romero** de la Procuraduría de Derechos Humanos (PDH) de Guatemala.

951. Según la información recibida, el 25 de marzo de 2009, a las 7h00, la Sra. Gladys Monterroso habría sido secuestrada, cuando se encontraba en las afueras de un restaurante en la Zona 9 de la Ciudad de Guatemala, en donde asistiría a una reunión. La Sra. Monterroso habría sido introducida por la fuerza en un vehículo por tres hombres encapuchados. A las 20h00 del mismo día, la Sra. Monterroso, llamó a sus familiares informando que se encontraba en un parque ubicado en la Colonia Atlántida, Zona 18. La víctima habría sido drogada y vejada durante las 13 horas que duró su cautiverio. Al ser ingresada al hospital, su estado de salud era delicado y presentaba diversas quemaduras de cigarro y golpes en varias partes de su cuerpo.

952. El secuestro habría sucedido a pocas horas de haberse hecho público el informe “Derecho a saber”, que denuncia abusos y crímenes cometidos por la Policía Nacional (PN) durante el conflicto armado, incluyendo asesinatos y desapariciones forzadas, redactado en base a una recopilación de 10 años de documentos del archivo histórico de la Policía Nacional.

953. El Procurador, el Dr. Sergio Morales y algunos de sus colaboradores cercanos habrían estado recibiendo diversas amenazas desde hace varios meses. Según la información recibida, el 14 de marzo, el Licenciado Luis Roberto Romero, abogado encargado de la Unidad de Averiguaciones Especiales de la Procuraduría de Derechos Humanos, quien trabaja sobre los casos de desapariciones forzadas ocurridas durante el conflicto armado en Guatemala, habría sido golpeado por desconocidos, produciéndole una incapacidad de una semana.

954. Se expresó temor que el secuestro de la Sra. Monterroso Velásquez de Morales y las amenazas en contra del Sr. Sergio Morales y el Sr. Luis Roberto Romero podrían estar relacionados con su trabajo legítimo en defensa de los derechos humanos en Guatemala. En visto de lo aquí resumido se expresó una profunda preocupación por la integridad física y psicológica y la seguridad de todos los miembros de la Procuraduría de Derechos Humanos de Guatemala.

Llamamiento urgente

955. El 23 de abril de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con amenazas de muerte y actos de hostigamiento contra el Sr. **Edgar Nefitaly Aldana Valencia**, Secretario General de la Filial de San Benito, El Petén, del Sindicato de Trabajadores de la Salud de Guatemala, y la Sra. **Karen Lucrecia Archila Lara**, esposa del Sr. Aldana y miembro del sindicato.

956. Según la información recibida, el 1 de abril de 2009, alrededor de las 7.20 horas, el Sr. Edgar Neftaly Aldana Valencia, a su salida del trabajo del hospital de San Benito, se habría percatado de que dos hombres le seguían a bordo de una motocicleta de color rojo, por lo que cambió de dirección y logró escabullirse. Minutos después, su esposa, la Sra. Karen Lucrecia Archila Lara, le advirtió telefónicamente que dos hombres a bordo de una moto roja habían disparado nueve veces contra su casa, causando graves desperfectos, por lo que le pidió no ir a su domicilio. Su esposa y su hija salieron ilesas del ataque contra la vivienda. El Sr. Aldana se dirigió entonces al Centro de Salud de Santa Elena, refugiándose en una de las clínicas.

957. Posteriormente, recibió una llamada telefónica de un hombre no identificado quien le habría amenazado de la siguiente forma: “Por haberte metido en problemas, tú y tu esposa, de sindicalistas en el hospital, me pagaron Q 100,000.00 por eliminarte físicamente, pero podemos llegar a un acuerdo”.

958. Hacia las 11.00 horas, recibió una serie de llamadas telefónicas que decidió no responder. Recibió también en ese mismo aparato cuatro mensajes de texto en un intervalo de cinco minutos, con claras amenazas dirigidas hacia él y a su mujer. Le pedían que contestara a su celular y le informaban que habían sido contratados para asesinarle así como a su mujer, pero que si accedía a pagar otros Q 100, 000,00 no le pasaría nada y podría conocer la identidad de las personas que ordenaron el atentado. El Sr. Aldana Valencia respondió que era una persona honrada que se ganaba la vida humildemente, y que no disponía de dinero.

959. El mismo día 1 de abril de 2009, el Sr. Aldana Valencia denunció estos hechos ante la Policía Nacional Civil (PNC) y el Ministerio Público (MP), los que se encuentran siendo investigados por la Fiscalía del Crimen Organizado de Chiquimula con el número MP 2702/009/1280. El 17 de abril de 2009, la Fiscalía habría abierto una investigación, pero al día de hoy no se conocen los resultados de la misma. El Sr. Aldana Valencia habría decidido esconderse y no habría sido entrevistado hasta la fecha por autoridad alguna.

960. En vista de lo expuesto, se expresó preocupación por la integridad física y psicológica del Sr. Edgar Neftaly Aldana Valencia y de su esposa la Sra. Karen Lucrecia Archila Lara. Se expresó temor que las amenazas proferidas contra estas personas podrían estar relacionadas con su trabajo legítimo en defensa de los derechos de los trabajadores de Guatemala.

Llamamiento urgente

961. El 20 de agosto de 2009, el Relator Especial envió en relación con la sentencia contra el Sr. **Raúl Figueroa-Sarti**. El Sr. Figueroa-Sarti, es periodista defensor de derechos humanos y editor en jefe de F&G Editores. Ha publicado varios libros sobre violaciones de los derechos humanos en Guatemala.

962. De acuerdo con las informaciones recibidas, el 6 de agosto de 2009, el Tribunal Séptimo de Sentencia Penal, Narcoactividad y Delitos contra el Ambiente condenó al Sr. Figueroa-Sarti a un año de prisión y al pago de una multa de 70,000 quetzales por infringir presuntamente los derechos de autor. Según se tiene conocimiento, el Sr. Figueroa-Sarti fue acusado de publicar

una fotografía en la cubierta de un libro sin la autorización escrita del fotógrafo. En tal virtud, no obstante haber negado los cargos, fue hallado culpable aún cuando el fotógrafo admitió que le dio permiso verbal de usar la fotografía y que le brindó los créditos al fotógrafo en la cubierta del libro.

963. Se teme que la sentencia contra el Sr. Figueroa-Sarti esté relacionada con las actividades legítimas que realiza en la defensa de los derechos humanos, en particular los libros que ha publicado sobre abusos de los derechos humanos en Guatemala.

Llamamiento urgente

964. El 14 de septiembre de 2009, la Relatora Especial sobre la situación de los defensores de los derechos humanos, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con **la Casa Campesina de la Iglesia Luterana Guatemalteca (ILUGUA)** en la Aldea la Trementina, Zacapa.

965. Recientemente, ILUGUA ha apoyado a líderes comunitarios en su denuncia contra la tala ilegal de árboles en La Montaña de Las Granadillas en Zacapa, la explotación minera en las montañas de Cerro Blanco, Asunción Mita y Jutiapa y la construcción de tres hidroeléctricas en Camotán y Jocotán que supuestamente afecta el acceso al agua en estos dos lugares donde existe un problema de hambruna y sequía.

966. Según las informaciones recibidas, el 2 de septiembre de 2009, aproximadamente a las 12 horas de la noche, un grupo de personas no identificadas habrían atacado el edificio de la Casa Campesina de ILUGUA. Cuando el vigilante nocturno les escuchó, les habría gritado y habría encendido las luces del patio. Sin embargo, los agresores habrían apagado las luces nuevamente y habrían intentado forzar la puerta. Cuando no consiguieron entrar a las oficinas, habrían roto una ventana así como tres persianas y habrían arrancado el contador de la electricidad. Además, por la ventana rota habrían logrado robar un teléfono.

967. En otro incidente, en agosto de 2009, el vigilante nocturno habría visto dos hombres con pasamontañas en el jardín de la Casa Campesina a las 10:30 horas de la noche.

968. Asimismo, en varias ocasiones durante el último año, personas no identificadas habrían pasado por las oficinas disparando con armas de fuego.

969. Se expresó temor que el asalto contra las instalaciones de la Casa Campesina de la Iglesia Luterana y la intimidación contra sus integrantes podrían estar relacionados con las actividades que la organización realiza en defensa de los derechos humanos.

Llamamiento urgente

970. El 5 de marzo de 2010, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente en relación con los asesinatos del Sr. **Octavio Roblero**, del Sr. **Germán Antonio Curup** y del Sr. **Juan Antonio Chen**, y sobre las amenazas que se habrían proferido en contra del Sr. **Leocadio Juracán** y de otros integrantes de la organización **Comité Campesino del Altiplano (CCDA)**, una organización constitutiva del **Movimiento Sindical, Indígena y Campesino de Guatemala**

(MSICG). El MSICG es una organización sindicalista bien conocida, en particular por su papel en la fundación de “Café Justicia”, un proyecto de la producción de café ético y justo. Durante los últimos meses, el MSICG habría sido objeto de actos de intimidación, incluyendo amenazas y asesinatos.

971. El Sr. Roblero era líder de la Frente de Resistencia en Defensa de los Recursos Naturales de Malacatán (FRENA), una organización constitutiva del MSICG. El Sr. Curup era el hijo del Sr. Abelino Curup, un líder comunitario de la región de San Juan Sacatepéquez, que habría sido condenado a 50 años de prisión por un asesinato que supuestamente no cometió. El Sr. Chen era un abogado Maya que trabajaba con la Oficina de Derechos Humanos del Arzobispado de Guatemala (ODHAG) y con el Programa Nacional de Resarcimiento (PNR). Asimismo estaba vinculado a la Convocatoria Ciudadana, una iniciativa para incluir a la comunidad en el trabajo contra la impunidad y para promover el sistema de justicia.

972. El Sr. Juracán es Coordinador del CCDA e un integrante del consejo político de MSICG. El MSICG ha trabajado en estrecha colaboración con el CCDA para hacer públicos los graves riesgos actuales de los trabajadores y sindicalistas en Guatemala. El 2 de febrero de 2010, el MSICG produjo un informe llamado “Guatemala, el costo de la libertad sindical”, que trata de las violaciones de los derechos de activistas indígenas, campesinos y sindicalistas en Guatemala. Asimismo, representantes de CCDA y MSICG, incluyendo el Sr. Juracán, visitaron recientemente la Unión Europea como parte de su campaña.

973. El Sr. Juracán y el CCDA ya han sido objetos de una comunicación de la Relatora Especial sobre la situación de los defensores de los derechos humanos el día 23 de marzo de 2009.

974. De acuerdo con las informaciones recibidas, el 17 de febrero, aproximadamente a las 5.30 horas de la tarde, el Sr. Roblero habría sido asesinado. El Sr. Roblero habría sido asesinado a tiros por una persona no identificada en su lugar de trabajo ubicado en el mercado de Malacatán, en San Marcos. Se informó que 17 balas habrían sido disparadas en el ataque. El mismo día, el Sr. Chen habría sido asesinado mientras se encontraba en su vehículo. Aproximadamente a las 7.00 horas de la tarde, personas no identificadas lo habrían asesinado a tiros desde una camioneta. Se informó que el Sr. Roblero habría recibido varias amenazas telefónicas de muerte antes de su asesinato. Su cuñado, el Sr. Víctor Gálvez, integrante de FRENA y activista contra abusos cometidos por la autoridad de electricidad en la región, fue asesinado el 24 de octubre de 2009 afuera de las oficinas de FRENA. Durante los últimos meses, el Sr. Roblero habría emprendido una campaña en contra de la impunidad por el homicidio del Sr. Gálvez.

975. El 11 de febrero, el cuerpo del Sr. Curup habría sido encontrado en el municipio de Bárcenas. El cadáver habría sido degollado y se habría encontrado con indicios de tortura. El Sr. Curup habría sido secuestrado con un colega de trabajo no identificado. Se informó que sus captores les habrían esperado al salir del trabajo.

976. Estos asesinatos habrían ocurridos después del asesinato de otra activista de FRENA, la Sra. Evelinda Ramirez, quien habría sido asesinada el 13 de enero de 2010 en el municipio de Ocos, cerca de Malacatán, después de una reunión con oficiales del Gobierno en la Ciudad de Guatemala. Ella habría recibido varios impactos de bala en el pecho mientras viajaba en coche con otras tres activistas de FRENA, cuando personas no identificadas les habrían disparado tiros desde una camioneta blanca.

977. Estos asesinatos habrían ocurrido en el contexto de un ambiente amenazante para los defensores de los derechos humanos en Guatemala, en particular defensores sindicalistas. Durante la noche del 9-10 de febrero de 2010, un robo habría tenido lugar en el centro de procesamiento de Café Justicia, ubicado en Cerro de Oro, Santiago Atitlán. Se habrían robado 182 sacos de granos de café verde, cada un peso aproximado de 150 libras cada uno. Asimismo, los supuestos ladrones habrían construido un círculo usando bloques del concreto, en el que habrían tirado varias botellas de cerveza y cigarrillos medio fumados. Se informó que mensajes amenazantes se habrían encontrado en el centro después del robo. Se cree que el robo podría haber estado relacionado con la publicación del informe de CCDA y MSICG el 2 de febrero.

978. Según las informaciones recibidas, el 13 de febrero de 2010 personas no identificadas se habrían presentado en las oficinas del CCDA y en el centro de procesamiento de Café Justicia para dejar mensajes con amenazas en contra del Sr. Juracán y su familia. El 14 de febrero, una nota conteniendo amenazas se habría debajo de la puerta del hogar de los familiares del Sr. Juracán, lugar que él habría visitado al principio de ese mismo día. El 15 de febrero, un grupo de representantes de MSICG se habría presentado a las oficinas de CCDA. Después de esa visita, el grupo habría sido sugerido por personas no identificadas.

979. A estas amenazas y actos de intimidación habrían seguido otros actos de hostigamiento que habrían ocurrido durante los últimos años. El Sr. Juracán habría recibido amenazas de muerte durante el mes de febrero de 2009 y habría sido objeto de un intento de asesinato el 1 de mayo de 2008. Asimismo, otro robo habría ocurrido en noviembre de 2009, en el que 27 sacos de granos de café verde habrían sido robados del centro de procesamiento del Café Justicia. Se cree que este robo podría haber estado relacionado con la presencia de representantes del MSICG ante del Congreso Nacional de Guatemala para pedir cambios legislativos en relación con la Ley del Desarrollo Rural.

980. Se teme que los asesinatos del Sr. Octavio Roblero, el Sr. Germán Antonio Curup y el Sr. Juan Antonio Chen, además de las amenazas en contra del Sr. Leocadio Juracán y otros integrantes del CCDA, estén relacionados con las actividades que realizaban en la defensa de los derechos humanos. Estos asesinatos se enmarcan en un contexto de gran vulnerabilidad para los defensores de los derechos humanos en Guatemala. Quisiera instar al Gobierno de su Excelencia a que tome las medidas necesarias para garantizar la seguridad de los defensores de los derechos humanos y para asegurar que ninguna violación contra ellos quede en la impunidad.

Respuesta del Gobierno a comunicaciones enviadas antes del período de presentación del informe

981. En una carta fechada el 25 de marzo de 2010, el Gobierno respondió a la comunicación envió un llamamiento urgente enviado el 20 de agosto de 2008 sobre en relación con los Sres. **Eliazar Hernández, Mario Gámez y Juan Navarro.**

982. En relación con los hechos a los que se refieren las alegaciones presentadas, de acuerdo con la información que trasladó el Ministerio Público, el 11 de agosto de 2008 se encontraron tres cadáveres en la finca San José El Llano, Palín Escuintla, kilómetro 38, que conduce al municipio de San Vicente Pacaya; los cadáveres tenían impacto de proyectil de arma de fuego; junto a ellos se encontró la motocicleta color rojo donde se conducían los jóvenes, siendo identificados posteriormente por los familiares, correspondiendo a las personas antes indicadas.

983. En relación con las investigaciones y diligencias judiciales realizadas en relación con el caso, se informó que se solicitó información al Registro Fiscal de Vehículos de la Superintendencia de Administración Tributaria, para constatar si aparecen registros de vehículos a nombre de Mario René Luna Gámez, Eleazar Bernabé Hernández y Juan Luis Navarro, constatando que no aparecen vehículos a nombre de ellos.

984. Se informó que se solicitó información a la Unidad de Gestión, Sala de la Corte de Apelaciones de la Niñez y la Adolescencia sobre los registros de ingreso a las cárceles correccionales, con los nombres de los fallecidos, informando que en sus archivos encontró registros de Mario René Luna, con referencias P-120/2000 y 506-2000, ambos del juzgado primero de menores. También se entrevistó a los miembros de la Asociación Cristiana de Jóvenes, así como a los encargados de la Finca San José, lugar donde aparecieron los jóvenes.

985. Se informó también que se solicitó información a la División de Investigaciones Criminalísticas de la Policía Nacional Civil si alguno de los jóvenes aparecen con antecedentes policíacos y/u orden de captura pendiente, estableciendo que no les aparece ningún registro.

986. Igualmente, se informó que se solicitó información al sistema 110 de la Policía Nacional Civil, con el objeto de indicar si el Sistema de Posicionamiento Global (GPS) registra alguna radiopatrulla entre las 20:00 y 24:00 horas del 10 de agosto de 2008 donde fueron encontrados los cuerpos de los jóvenes asesinados; la Policía Nacional Civil informó que no aparece ningún vehículo registrado en ese lugar.

987. Se informó que al tomarles declaración a las personas que se encontraban en el lugar, ellas manifiestan no tener ningún dato relevante respecto al caso, incluso manifiestan no querer verse involucradas en este tipo de situaciones.

988. Igualmente, se informó que según las investigaciones realizadas hasta la presente fecha, no se ha podido dar con los posibles responsables del asesinato de los señores Mario René Luna Gámez, Eleazar Bernabé Hernández y Juan Luis Navarro.

989. El Ministerio Público informó que el 11 de agosto de 2008 se constituyó al kilómetro 38 de la finca San José El Llano, con el objeto de procesar la escena del crimen de la siguiente forma: CADAVER A: de sexo masculino, de veintidós años de edad, tenis, calcetines blancos. CADAVER B: de sexo masculino, de treinta años de edad aproximadamente, pantalón de lona azul, calcetines blancos. CADAVER C: de sexo masculino, de veintidós años aproximadamente, pantalón de lona azul, cincho de color negro, zapatos tenis; presentaban varias heridas de arma de fuego.

990. También informó que se recibió informe del Departamento de Investigaciones Criminalísticas, en el cual informan que los cuerpos fueron identificados en la morgue del Instituto Nacional de Ciencias Forenses”, que “se tomaron muestras de sangre de los jóvenes con el objeto de realizar el examen de alcoholemia y drogas, pendiente de recibir los informes respectivos”, y que “se entrevistó a la hermana de uno de los fallecidos, quien informó que cuando los jóvenes asesinados se retiraron de la residencia de uno de ellos, momentos después escuchó la sirena de un auto patrulla de la Policía Nacional Civil, por lo que comentó a su progenitora el temor de que su hermano fuera capturado por conducirse con tres personas en una motocicleta.

991. Se informó que se obtuvo la declaración testimonial de una persona que afirmó que estuvo en la escena donde aparecieron los cadáveres, quien manifestó que escuchó que esa noche una persona denunció haber sido objeto de asalto por individuos que se conducían en una motocicleta de color rojo.

992. Se informó que se inició la investigación correspondiente con el objeto de determinar la veracidad de los hechos relacionados con la denuncia de un posible asalto cometido por unos individuos que se conducían en una motocicleta de color rojo.

993. En el marco de la referida investigación, se informó que se solicitó copia del informe del acta de levantamiento de los cadáveres en la escena del crimen, proporcionando una impresión sin sello y firma, donde parecen como responsables de dicho procedimiento los agentes José Luis Ordóñez y Amílcar Derboy, quienes informaron de las diligencias realizadas donde localizaron los tres cadáveres”, y que “se obtuvo información del Instituto Nacional de Ciencias Forenses de Guatemala (INACIF) relacionada a cada uno de los fallecidos, en el que se concluye que se encontró sustancias identificadas como etanol en la muestra de sangre de cada uno de ellos.

994. Asimismo se informó que el 12 de junio de 2009 se citó al personal de la Asociación Cristiana de Jóvenes de Guatemala para comparecer, quienes no se presentaron, que el 20 de julio de 2009 se presentó la señora Claudia Tejeda, de la Asociación Cristiana de Jóvenes de Guatemala, para declarar sobre las funciones y actividades de las víctimas, que el 21 de julio de 2009 se presentó a declarar el señor José Herrera, Jefe de la subestación de la Policía Nacional Civil de San Vicente Pacaya, Escuintla, que el 27 de agosto de 2009 se solicitó información a la Comisaría 15 de la Policía Nacional Civil y a la subestación de Amatitlán, y que también el mismo día se practicó inspección de los libros de personas detenidas y reclusas en las cárceles públicas del municipio de Amatitlán.

995. En relación con las medidas de protección adoptadas para los demás miembros de la Asociación Cristiana de Jóvenes de Guatemala, se informó que después de una cita entre funcionarios de la COPREDEH y el director de la Asociación Cristiana de Jóvenes de Guatemala, así como con el abogado representante de los familiares de los jóvenes asesinados, manifestaron que no era el momento conveniente para implementar medidas de seguridad, por lo que evaluarían la situación.

996. Finalmente, se informó que el 17 de agosto de 2009 se obtuvo información que los familiares Eleazar Hernández sufrieron intimidaciones por parte de personas desconocidas luego de dar su declaración en el proceso penal, ya que son querellantes adhesivos en dicho proceso; sed les convocó a una reunión urgente el 28 de agosto de 2009, nuevamente con el objeto de ofrecer la implementación de medida de protección a favor de los familiares y demás miembros de la asociación, quienes notificaron que suspendían la reunión. Después de estos hechos no ha habido comunicación.

Observaciones

997. El Relator Especial agradece la respuesta del Gobierno de Guatemala a la comunicación fechada el 15 de enero de 2009. No obstante, el Relator Especial lamenta que al momento de finalización del presente informe no había recibido respuesta a varias comunicaciones de 2009 y 2008. El Relator Especial considera que al responder a las comunicaciones representa un

elemento fundamental para la cooperación de los Estados con el mandato, es por ello que insta al gobierno guatemalteco a que le proporcione una respuesta tratando los asuntos mencionados.

Guinea

Appel urgent

998. Le 6 octobre 2009, le Rapporteur spécial, conjointement avec le Président Rapporteur du Groupe de Travail sur la détention arbitraire, le Président du Groupe de Travail sur les Disparitions Forcées ou Involontaires, le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants, le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires, la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, et le Groupe de Travail sur l'utilisation des mercenaires comme moyen de violer les droits de l'homme et d'empêcher l'exercice du droit des peuples, a envoyé un appel urgent sur les **opérations de forces de sécurité guinéennes au cours des journées du 28 et 29 septembre 2009 à Conakry**.

999. Selon les informations reçues, le 28 septembre 2009, près de 50 000 personnes manifestant contre une éventuelle candidature du Capitaine Moussa Dadis Camara aux élections présidentielles de janvier 2010 auraient défilé dans les rues et se seraient ensuite regroupées dans un stade de Conakry à la mi-journée.

1000. Les forces de sécurité seraient alors intervenues afin d'évacuer le stade en utilisant des gaz lacrymogènes ainsi que leurs armes à feu. Des membres des forces de sécurité auraient tiré en l'air mais également ouvert le feu en direction de la foule. Certaines sources font état de la participation de mercenaires d'origine du Liberia parmi les forces de sécurité lors la répression de la manifestation. Plus de 150 personnes auraient été tuées et plus d'un millier blessées. Plusieurs corps de manifestants porteraient des traces de blessures multiples, causées par arme à feu et par des armes blanches, notamment des couteaux et baïonnettes.

1001. De nombreuses femmes participant à la manifestation ou se trouvant dans la zone auraient été arrêtées par les forces de sécurité, déshabillées et soumises à des violences sexuelles, notamment des attouchements, des viols, y compris collectifs, aussi bien dans le stade que plus tard dans des lieux de détention.

1002. Suite à la manifestation, pendant plusieurs heures, de nombreuses personnes, y compris des blessés, auraient été arrêtées à leur domicile, dans la rue ainsi que dans des hôpitaux. Il a été rapporté que ces personnes risquent d'être torturées ou de disparaître. Certaines familles n'auraient toujours aucune nouvelle de leurs proches qui auraient participé à la manifestation.

1003. Plusieurs dizaines de manifestants seraient encore détenus, notamment dans les camps militaires de Alpha Yalla Diallo et Koundara, au quartier général de la Compagnie mobile d'intervention et de sécurité ainsi que dans un centre de détention géré par la Gendarmerie, le PM-3. Selon les informations reçues, aucune de ces personnes détenues depuis le 28 septembre n'aurait été présentée à un juge.

1004. Le 29 septembre 2009, dans la banlieue de Conakry, les forces de sécurité auraient ouvert le feu sur des jeunes qui se trouvaient dans la rue causant la mort de trois adolescents, un à Cosa et deux à Wanidara.

1005. Des membres des forces de sécurité auraient procédé à l'enlèvement de cadavres des lieux de la manifestation ainsi que des hôpitaux et les auraient emmenés dans des lieux inconnus. A l'hôpital Ignace Deen de Conakry, plusieurs dizaines de corps auraient ainsi été emportés. Selon les informations reçues, ces enlèvements de cadavres auraient pour objectif de dissimuler les corps des victimes.

Appel urgent

1006. Le 4 décembre 2009, le Rapporteur spécial, conjointement avec le Président Rapporteur du Groupe de Travail sur la détention arbitraire, et la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, a envoyé un appel urgent sur la situation de M. **Mouktar Diallo**. M. Diallo est membre de l'Observatoire national des droits de l'Homme.

1007. Selon les informations reçues, le 26 novembre 2009, M. Diallo aurait été arrêté à Cosa par des agents du Ministère chargé de la lutte anti-drogue et du grand banditisme. Il serait actuellement détenu au camp militaire Yaya Alpha Diallo sans qu'aucune charge n'ait été retenue contre lui.

1008. Il est allégué que cette arrestation serait liée aux déclarations de M. Diallo sur les antennes de la radio la Voix de l'Amérique (Voice of America-VOA news) le 28 septembre 2009 au sujet des événements survenus le même jour à Conakry.

1009. Des craintes ont été exprimées quant au fait que cette détention soit liée aux activités non violentes de promotion et de protection des droits de l'homme de M. Diallo. Compte tenu du fait que M. Diallo souffre de diabète et de problèmes cardiaques, des craintes ont également été exprimées quant à son intégrité physique et psychologique.

Observations

1010. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse aux deux présentes communications, ainsi qu'à celles en date du 22 mai 2008, 14 janvier 2008, 12 novembre 2007, 30 janvier 2007, 23 février 2005 et 14 avril 2004. Il considère les réponses à ses communications comme partie intégrante de la coopération des gouvernements avec son mandat. Il exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celles-ci, notamment en fournissant des informations précises sur les enquêtes menées afin de traduire en justice les auteurs des faits et les mesures de protection prises.

Guinea-Bissau

Appel urgent

1011. Le 6 avril 2009, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants, a envoyé un appel urgent au Gouvernement sur la situation de

Me **Luís Vaz Martins**, avocat et président de la Ligue des droits de l'homme de Guinée-Bissau, Me **Pedro Infanda**, avocat et M. **Francisco José Fadul**, Président de la Cour des Comptes et du parti d'opposition Partido para a Democracia Desenvolvimento e Cidadania (PADEC). Selon les informations reçues :

1012. Le 1er avril 2009, un homme armé habillé en civil se serait rendu aux bureaux de la Ligue des droits de l'homme à la recherche de Me Luís Vaz Martins, qui n'était alors pas présent. L'homme aurait demandé l'adresse du domicile de Me Luís Vaz Martins et aurait déclaré qu'il voulait tuer celui-ci car la Ligue des droits de l'homme était trop « bavarde ». Auparavant, Me Luís Vaz Martins aurait dénoncé l'arrestation et la torture de Me Pedro Infanda.

1013. Me Pedro Infanda aurait été arrêté par des militaires le 23 mars 2009 quelques heures après qu'il ait tenu une conférence de presse au cours de laquelle il déclarait, au nom de son client, M. Jose Americo Bubo Na Tchute, ancien Chef de la Marine de Guinea Bissau, que le nouveau Chef du personnel des Forces Armées n'était pas compétent pour le poste. Me Pedro Infanda aurait été conduit de son bureau à l'installation militaire Quartel Amura de Bissau, où il aurait été gravement battu avec des bâtons, et ce pendant quatre jours. Il se serait vu refuser l'accès à un traitement médical, à sa famille et à son avocat. Son corps serait intégralement couvert de bleus.

1014. Il est également allégué que M. Francisco José Fadul aurait été agressé le 1er avril 2009 par quatre militaires qui l'auraient frappé avec la crosse de leurs fusils et lui auraient dit qu'il était « trop bavard ». En l'occurrence, le 30 mars 2009, M. Francisco José Fadul aurait tenu une conférence de presse appelant le Gouvernement à traduire en justice les militaires coupables de corruption et autres crimes. M. Francisco José Fadul aurait des blessures sur tout le corps, notamment à la tête et une blessure à l'arme blanche sur un bras.

1015. MM. Pedro Infanda et Francisco José Fadul seraient actuellement en soins intensifs à l'hôpital national Simão Mendes à Bissau.

1016. De vives préoccupations sont exprimées pour l'intégrité physique et morale de MM. Luís Vaz Martins, Pedro Infanda et Francisco José Fadul ainsi que pour celle des autres membres de la Ligue des droits de l'homme.

Observations

1017. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 6 avril 2009 et celle du 2 août 2007. Il exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celles-ci, notamment en fournissant des informations précises sur les enquêtes menées afin de traduire en justice les auteurs des faits et les mesures de protection prises. Il considère les réponses à ses communications comme partie intégrante de la coopération des gouvernements avec son mandat.

Honduras

Carta de alegaciones

1018. El 26 de enero de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, el Relator Especial sobre las ejecuciones

extrajudiciales, sumarias o arbitrarias y la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, enviaron una carta de alegaciones señalando a la atención urgente del Gobierno la información recibida en relación con el asesinato de la Sra. **Cynthia Nicole**, defensora líder de los derechos de las personas transgénero en Honduras.

1019. Según las informaciones recibidas, en la madrugada del 9 de enero de 2009 tres hombres desconocidos le habrían disparado a la Sra. Nicole desde un automóvil azul en movimiento en el Barrio Guaserique, Comayaguela, una ciudad colindante a Tegucigalpa. La activista por los derechos de las personas transgénero recibió tres disparos en el pecho y uno en la cabeza, y murió a causa de las heridas.

1020. Este asesinato era el más reciente en una serie de agresiones violentas contra personas transgénero en Honduras. En noviembre y diciembre de 2008 hubo agresiones contra otras cinco personas transgénero, dos de ellas resultaron muertas.

1021. Además de estas agresiones, el 20 de diciembre, personal policial en Tegucigalpa golpeó a una trabajadora activista transgénero dedicada a difundir la prevención del VIH/SIDA.

1022. Se expresó grave preocupación por el asesinato de la Sra. Cynthia Nicole y por la seguridad física y psicológica de los/las defensores/as de la comunidad transgénero en Honduras.

Llamamiento urgente

1023. El 3 de marzo de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con las amenazas contra la Sra. **Bertha Oliva de Nativí**. Bertha Oliva es Coordinadora General del Comité de Familiares de Detenidos Desaparecidos en Honduras (COFADEH).

1024. La Sra. Oliva y el COFADEH ya fueron objeto de una comunicación de la Relatora Especial sobre la situación de los defensores de derechos humanos, quien envió una carta el 16 de julio de 2008. COFADEH es una organización que trabaja contra la corrupción y la impunidad en Honduras.

1025. Según las informaciones recibidas, el 27 de enero de 2009, aproximadamente a las 14h45, dos mensajes conteniendo amenazas habrían sido recibidos en el teléfono móvil de Bertha Oliva de Nativí. El primer mensaje decía: “Quieres saber quién soy yo. Por tu bien más te vale que no lo sepas. Y no quiero que me sigan llamando o les tendré que cerrar la boca de otra manera y ya sabes a que me refiero [sic.]” El segundo decía: “Cómo amaneciste. Espero que bien. Porque cuando yo quiera podés amanecer con la boca llena de gusanos. Y en una bolsa de basura” [sic.].

1026. El mismo día se habrían distribuido folletos difamando a la Sra. Bertha Oliva de Nativí en el Parque Central de Tegucigalpa. La distribución de estos folletos formaría parte de una campaña de difamación contra esta persona que habría empezado después de que el Presidente de la República aprobase un decreto ejecutivo en diciembre de 2008 para crear un programa nacional de reparaciones para víctimas de violaciones de derechos humanos en los años 80 y ordenando la resolución amistosa de dos casos ante la Comisión Interamericana de Derechos

Humanos. La campaña acusaría a Bertha Oliva de Nativí de estar lucrando como resultado de dicho decreto ejecutivo.

1027. Se expresó temor que la campaña de amenazas en contra de la Sra. Bertha Oliva podría estar relacionada con su trabajo contra la corrupción y la impunidad en Honduras. También se expresó preocupación que los integrantes del COFADEH han sido amenazados durante varios años sin que se hayan procesado o condenado a los responsables de las amenazas. Además se alegó que la protección proporcionada a estas personas sería insuficiente.

Llamamiento urgente

1028. El 6 de julio de 2009, la Relatora Especial sobre la situación de los defensores de los derechos humanos, junto con el Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, el Presidente-Relator del Grupo de Trabajo sobre las Desapariciones Forzadas o Involuntarias y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con las siguientes personas que habrían sido detenidas luego de la interrupción del orden constitucional que tuvo lugar el 28 de junio de 2009:

1. Sr. **Edran Amado López**, periodista del programa Cholusatur del Canal 36;
2. Sr. **Alan Mc Donald**, caricaturista, detenido en su domicilio por elementos del ejército junto con su hija de 17 meses;
3. Sra. **Adriana Sivori**; corresponsal de Telesur;
4. Sr. **Larry Sánchez**, corresponsal de Telesur;
5. Sra. **María José Díaz**, corresponsal de Telesur;
6. Sr. **Freddy Quintero**, corresponsal de Telesur: Estos cuatro corresponsales de Telesur habrían sido detenidos por elementos militares; despojados de sus documentos y de sus equipos de trabajo.

1029. Se expresó temores por la integridad física y psíquica de las personas detenidas. Se informó también que los siguientes defensores de derechos humanos habrían sido objeto de amenazas y actos de hostigamiento:

1. Sra. **Bertha Oliva de Nativí**, Presidenta del Comité de Familiares de Detenidos-Desparecidos de Honduras (COFADEH);
2. Sr. **Salvador Zúñiga**, del Consejo Cívico de Organizaciones Populares e Indígenas de Honduras;
3. Sr. **Rafael Alegría**, dirigente nacional de Vía Campesina;
4. Sr. **Israel Salinas**, de la organización Sindicato Mayoritario;
5. Sr. **Ángel Alvarado**, del Comité Nacional de Resistencia;

6. Sra. **Sala Elisa Rosales**, de la Organización Las Lolos y Movimiento Feminista;
7. Sr. **Juan Barahona**, de Bloque Popular;
8. Sr. **Carlos Humberto Reyes**, de Bloque Popular;
9. Sra. **Bertha Cáceres**, del Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (COPIHN);
10. Sr. **Celeo Álvarez**, de la Organización Negra Centroamericana (ONECA);
11. Sr. **Carlos Eduardo Reina**, del Comité Nacional de Resistencia;
12. Sr. **Eulogio Chávez**, del Comité Nacional de Resistencia;
13. Sr. **Marvin Ponce**, del Consejo Cívico de Organizaciones Populares e Indígenas de Honduras;
14. Sr. **Andrés Pavón Uribe**, del Comité de Derechos Humanos de Honduras (CODEH).”

1030. En vista de lo aquí resumido se expresó temor por la integridad física y psicológica de los defensores de derechos humanos citados. Se alegó que las amenazas y los actos de intimidación en contra de estos defensores podrían estar relacionados con su trabajo en defensa de los derechos humanos en Honduras.

Llamamiento urgente

1031. El 30 de septiembre de 2009, la Relatora Especial sobre la situación de los defensores de los derechos humanos, junto con el Presidente Relator del Grupo de Trabajo sobre la Detención Arbitraria; el Presidente Relator del Grupo de Trabajo sobre las Desapariciones Forzadas o Involuntarias, el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias; el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y el Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con la situación descrita a continuación.

1032. Según las informaciones recibidas, decenas de personas que se manifestaban ante la Embajada de Brasil en Tegucigalpa en favor de la restitución en el poder del presidente destituido Manuel Zelaya, habrían sido detenidas desde que éste regresó al país el 21 de septiembre de 2009. Se afirmó que elementos policiales habrían recurrido a un uso excesivo de la fuerza en la disolución de las manifestaciones callejeras en favor del presidente Zelaya y en la detención a gran escala de los manifestantes. A algunos manifestantes los elementos policiales les habrían golpeado e incluso habrían sido víctimas de disparos. Otros habrían sido conducidos a centros de detención no autorizados, sin contar con ningún registro de su detención. Aunque la mayoría habrían sido ya liberados, otros permanecen en detención.

1033. Asimismo, se ha recibido información de que cinco personas habrían resultado muertas en los disturbios políticos que han tenido lugar desde el 21 de septiembre. El 22 de septiembre José Jacobo Euceda Perdomo, de 18 años resultaba muerto por disparos de la policía en San Pedro Sula. Las cuatro otras personas habrían muerto en Tegucigalpa, incluyendo al Sr. Francisco Alvarado, de aproximadamente 65 años de edad, quien habría muerto a consecuencia de heridas de bala recibidas durante una manifestación en favor del presidente Zelaya.

1034. Se informó también que el 22 de septiembre de 2009, agentes policiales arrojaron botes de gas lacrimógeno al interior de la sede del Comité de Familiares de Detenidos Desaparecidos en Honduras (COFADEH) en el Barrio La Plazuela de Tegucigalpa, donde se encontraba un centenar de participantes en las manifestaciones dando su testimonio sobre la represión de las manifestaciones frente a la Embajada.

1035. Ante esta situación, se expresó seria preocupación por la seguridad de los miembros de COFADEH y de otras organizaciones defensoras de los derechos humanos.

1036. Asimismo, se tuvo conocimiento del establecimiento del estado de sitio en todo el territorio nacional, suspendiéndose las garantías constitucionales de libertad de expresión, libertad de circulación y el derecho a reunión durante 45 días (consagradas en los artículos 69, 72, 81 y 84 de la Constitución Política, respectivamente). La suspensión de estos derechos fue aprobada por decreto ejecutivo de fecha 22 de septiembre de 2009, publicado el 26 de septiembre de 2009 en el Diario Oficial La Gaceta. Según el texto de dicho decreto ejecutivo, la Comisión Nacional de Telecomunicaciones (CONATEL), a través de la Policía Nacional y de las fuerzas armadas, queda autorizada a suspender cualquier radioemisora, canal de televisión o sistema de cable que no ajuste su programación a sus disposiciones.

1037. Estas medidas habrían sido justificadas sobre la base de que “determinados medios de comunicación social, hablados y televisados, están utilizando sus frecuencias autorizadas para generar odio y violencia contra el Estado, perturbando la tranquilidad nacional, llamando a la insurrección popular, y dañando psicológicamente a su auditorio”. Es así que se ordena a las Fuerzas Armadas que apoyen “conjunta o separadamente, cuando la situación así lo requiera, a la Policía Nacional, debiendo poner en ejecución los planes necesarios para el orden y la seguridad pública”. El decreto ejecutivo autoriza la represión de “toda reunión pública no autorizada por las autoridades policiales y militares”.

1038. Este decreto ejecutivo es especialmente preocupante, ya que varias estaciones de radio y televisión han interrumpido sus transmisiones ordinarias desde el regreso de Zelaya. Se tuvo conocimiento del posible cierre de “Radio Progreso”, en el centro de la ciudad de El Progreso, al norte del país, la cual tiene una trayectoria de 53 años de funcionamiento. Además, Canal 36 y las señales de Radio Globo han sido objeto de interrupción casi constante.

1039. En este contexto, se afirmó que el 21 de septiembre de 2009, a alrededor de las 5:30 de la mañana, la señal de Canal 36 habría sido interrumpida mediante cortes de electricidad en sus instalaciones y en el sitio donde se ubican los transmisores. También, la señal de Radio Globo habría sido interrumpida constantemente con interferencias eléctricas, en tanto que la señal del programa televisivo “Hable como Habla” habría sido bloqueada en su emisión del mediodía. El 28 de septiembre habrían sido cerradas Radio Globo y Canal 36.

1040. Esta información preocupó de manera particular, teniendo en cuenta el aumento de denuncias de ataques, agresiones e intimidación contra periodistas en Honduras, incluyendo la destrucción de sus equipos de trabajo. La libertad de expresión es un derecho fundamental que no permite excepciones ni restricciones, por lo que se hizo un llamado a las autoridades para que garanticen el libre ejercicio del derecho a la libertad de opinión y expresión, instándoles además a adoptar las medidas pertinentes para asegurar la integridad física y moral de las personas que, por su profesión, están particularmente vinculadas a la libertad de opinión y expresión y la libertad de reunión.

Llamamiento urgente

1041. El 16 de noviembre de 2009, la Relatora Especial sobre la situación de los defensores de los derechos humanos junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y el Relator Especial sobre la independencia de magistrados y abogados enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con actos de intimidación y hostigamiento a jueces, abogados, oficiales de justicia y defensores públicos, después del golpe de Estado ocurrido en 28 de junio de 2009.

1042. En este contexto, quisiera hacer referencia al comunicado de prensa emitido el 10 de julio de 2009 por el Relator Especial sobre independencia de jueces y abogados que me antecedió en el mandato, expresando su condena y censura al comportamiento “...de la Corte Suprema de Justicia, que participa en el engranaje de disolución del Estado de Derecho al apartarse de las reglas de independencia e imparcialidad que deben caracterizar a dicho órgano.

1043. De acuerdo a la información recibida recientemente, la Corte Suprema habría continuado manifestándose públicamente a favor del golpe de Estado calificándolo como “sucesión constitucional”.

1044. Asimismo, también se informó que ese Alto Tribunal de Justicia habría ordenado procesos disciplinarios, traslados forzosos, y otras acciones de intimidación y hostigamiento contra: **Guillermo Lopez Lone, Tirza Flores Lanza, Luis Alonso Chévez de la Rocha, Elvia Ondina Varela, Mauricio Mateo García, Ramón Enrique Barrios, Ricardo Pineda, Osman Antonio Fajardo Morel, Fabiola Carcamo, Maritza Arita, Juan Carlos Zelaya y Sigfredo Lozano Martínez**, todos ellos se habrían manifestado, de distintas formas legales, a favor del restablecimiento del Estado democrático.

1045. Según surgió de las alegaciones recibidas, las medidas disciplinarias y los traslados forzosos aplicados a los mencionados profesionales del derecho, habrían sido impuestas mediante actuaciones violatorias de las garantías del debido proceso y en franco detrimento de la independencia e imparcialidad del sistema de justicia hondureño. Los actos denunciados también serían violatorios del ejercicio del derecho a la libertad de conciencia, a la libertad de pensamiento y expresión, y a la libertad de reunión y manifestación.

1046. Se denunció también que los actos de persecución y hostigamiento han estado dirigidos particularmente hacia los magistrados miembros de la “Asociación de Jueces por la Democracia”, organismo que ha sostenido permanentemente la necesidad de restablecer el Estado de Derecho.

1047. Se expresó temor que los actos de hostigamiento e intimidación en contra de magistrados, defensores públicos y demás auxiliares de justicia, podrían estar relacionados con su actividad desarrollada a favor del restablecimiento del orden constitucional en Honduras.

Carta de alegaciones

1048. El 19 de enero de 2010, el Relator Especial, junto con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias y la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron una carta de alegaciones en relación con el homicidio del Sr. **Walter Orlando Trochez**, defensor de los derechos de la comunidad lesbiana, gay, bisexual y transgénero (LGTB) e integrante del Centro de Promoción e Investigación de los Derechos Humanos (CIPRODEH). En su calidad de miembro de CIPRODEH, realizaba actividades en defensa de los derechos humanos tras la destitución del Presidente Zelaya. Recientemente, habría trabajado en la liberación de detenidos en el marco de los operativos organizados para disolver las manifestaciones de los partidarios del Presidente Manuel Zelaya, y habría así mismo denunciado las presuntas violaciones de derechos humanos cometidas por oficiales del ejército y de la policía durante dichas manifestaciones.

1049. Según las informaciones recibidas, el 13 de diciembre de 2009, aproximadamente a las 22:30 horas, un hombre no identificado disparó contra el Sr. Trochez en el centro de la ciudad de Tegucigalpa, cerca del Parque Central Francisco Morazán. El Sr. Trochez fue llevado al hospital donde murió poco después.

1050. Cabe añadir que el 4 de diciembre de 2009, el Sr. Trochez habría hecho una denuncia pública a nivel nacional e internacional alegando que había sido secuestrado por cuatro individuos encapuchados y llevado en un vehículo sin placas de matrícula a un lugar desconocido donde habría sido golpeado. Los presuntos agresores le habrían interrogado sobre sus actividades en defensa de los derechos humanos y sobre líderes opuestos al gobierno de facto. Asimismo, le habrían amenazado con asesinarlo. En esta ocasión el Sr. Trochez habría logrado escapar de sus secuestradores.

1051. Se teme que el asesinato del Sr. Trochez esté relacionado con las actividades que realizaba en la defensa de los derechos humanos, en particular sus actividades documentando y denunciando las violaciones de los derechos humanos durante protestas pacíficas en contra del golpe de estado del 28 de junio. Este asesinato se enmarca en un contexto actual de gran vulnerabilidad para los defensores de los derechos humanos en Honduras. Quisiéramos instar al Gobierno de su Excelencia que tome medidas para garantizar la seguridad de los defensores de los derechos humanos y para garantizar que las violaciones de sus derechos humanos no queden en la impunidad.

Observaciones

1052. El Relator Especial lamenta que, al momento de finalización del presente informe, no había recibido respuesta a sus comunicaciones fechadas el 26 de enero de 2009, 3 de marzo de 2009, 6 de julio de 2009, 30 de septiembre de 2009, 12 de octubre de 2009, el 16 de noviembre de 2009 y el 19 de enero de 2010. El Relator Especial considera que al responder a las

comunicaciones representa un elemento fundamental para la cooperación de los Estados con el mandato, es por ello que insta a las autoridades hondureñas a que le proporcione una respuesta tratando los asuntos mencionados.

1053. En una declaración del 2 de octubre de 2009, el Relator Especial expresó su grave preocupación por las recientes violaciones de los derechos humanos en Honduras, resultado de los hechos acaecidos desde que regresó al país el presidente destituido, Manuel Zelaya. Los defensores de los derechos humanos han sido particularmente vulnerables a estas violaciones, sobre todo los defensores a favor de la democracia y aquellos que participaron en manifestaciones políticas. El Relator Especial reitera su preocupación por las violaciones contra el derecho a la vida y la integridad física, tanto asesinatos como amenazas de muerte, así como los actos de acoso e intimidación contra defensores de derechos humanos.

1054. Asimismo, como se ha mencionado en su comunicado de prensa del 10 de mayo 2010, el Relator expresa su más profunda preocupación por la muerte de siete periodistas desde marzo 2010, y reitera la obligación del Estado de investigar a profundidad cada uno de estos casos, así como de procesar a los responsables.

India

Letter of allegations

1055. On 29 July 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegations regarding Dr. **Harshinindar Kaur**, a citizen of India, and resident of Patiala, Punjab. Dr. Kaur, representing Mbororo Social and Cultural Development Association (MBOSCUDA), delivered a public statement to the 11th session of the Human Rights Council in Geneva in June 2009, as part of the General Debate, Agenda item No. 3. Dr. Kaur's written and oral statement pertained to violence against women, and more particularly to concerns of human rights violations against women in India in the form of female feticide, female infanticide, dowry practices and rape. In this statement, Dr. Kaur expressed general concern about these human rights violations and provided some supporting statistics.

1056. According to information received, reportedly, following this statement on the afternoon of 8 June 2009, Dr. Kaur was approached by a person who identified herself as a "very senior Government official of India" in the Palais des Nations building in Geneva, and was verbally threatened with retaliations. The aforementioned individual allegedly threatened Dr. Kaur by telling her that high-ranking officials in India and the Punjab region had been contacted about her statements, inquiring about her family's whereabouts, and telling her that she could harm her once she was back in India. Subsequently, an employee described as being from the Central Government (CBI), visited Dr. Kaur's house in the Punjab region, to also enquire about her statement at the Human Rights Council.

Response from the Government

1057. In a letter dated 29 December 2009, the Government of India responded to the communication sent on 29 July 2009 as follows. The Government has examined the communication and found the allegations to be inaccurate. No Government of India official

contacted the subject in Geneva on 8 June 2009. As regards the allegation of a visit by an official of the Central Bureau of Investigation (CBI) to her house in Punjab, the allegation has been investigated by the local office of the CBI that has found it to be untrue. Subsequent to the allegation, the CBI has contacted the subject and provided her with contact details to help her in case any person approaches the subject at the behest of the CBI in future.

Urgent appeal

1058. On 24 September 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal to the Government regarding the arrests of Mr. **Jiten Yumnam**, Ms. **Longjam Memchoubi**, Mr. **Likmabam Tompok**, Mr. **Amom Soken**, Mr. **Irom Brojen**, Mr. **Thiyam Dinesh**, Mr. **Chungshel Koireng**, Mr. **Taorem Ramananda** and Mr. **Samjetshabam Nando**. Mr. Yumnam, is a member of the Coordinating Committee of the Asia Pacific Indigenous Youth Network (APIYN) and Joint-Secretary of Citizens' Concerns on Dam and Development (CCDD). Ms. Memchoubi is a member of Apunba Lup and president of the Poirei Leimarol Meira Paibi Apunba Lup. Mr. Tompok, Mr. Soken, Mr. Brojen, Mr. Dinesh, Mr. Koireng and Mr. Ramananda are members of the All Manipur United Clubs' Organization (AMUCO) and Mr. Nando is a member of the All Manipur Ethnical Socio-Cultural Organisation (AMESCO).

1059. According to information received, on 14 September 2009, at approximately 12:30 p.m., Mr. Yumnam was arrested at Imphal Airport in Manipur, while on his way to a regional meeting on climate change in Bangkok, Thailand. Police also confiscated his lap-top, digital camera, passport and approximately 500 USD in cash.

1060. On the same day, at approximately 3:15 p.m., Mr. Tompok, Mr. Soken, Mr. Brojen, Mr. Dinesh, Mr. Koireng, Mr. Ramananda and Mr. Nando were arrested at AMUCO's head office in Kwakeithel by a combined team of Imphal West police and Singjamei police. Mr. Jiten Yumnam's family members went to the police station, but the police denied any report of his arrest.

1061. On 15 September, Mr. Yumnam, Mr. Nando and the six previously mentioned members of AMUCO were brought before the Additional Chief Judicial Magistrate in Lamphel and subsequently remanded in police custody until 29 September. They have reportedly been charged with 'attempting to wage war' and 'conspiring to commit offences against the state', of violating Section O of the Official Secret Act by leaking information to others and unlawful association and other related offences. During his detention, Mr. Jiten Yumnam was allegedly subjected to electric shocks to extract information from him.

1062. At approximately 5 p.m. on the evening of 15 September, the eight detainees were reportedly taken to J.N. Hospital at Porompat, Imphal East where they underwent a medical examination. The medical certificate concerning Mr. Yumnam stated that he had been treated for electric shocks. After the examination, the detainees were taken back to the Imphal Police Station.

1063. On 25 August, Ms. Memchoubi was arrested at her home by the Manipur Police. She was brought before the Chief Judicial Magistrate in Imphal and subsequently remanded in police custody for fifteen days. She has been charged under section 124A/435/34 of the Indian Penal Code (IPC), 39 of the Unlawful Activities Prevention Act (UAPA) and 7 of the Criminal Law Amendment Act (CLA).

1064. It is alleged that the arrests of the abovementioned human rights defenders are related to ongoing protests following a police shootout in Imphal Town on 23 July 2009 in which a pregnant woman and a minor were reportedly killed, and five others were injured. The police reportedly also accused Mr. Yumnam of being involved in a media campaign surrounding the incident.

1065. In this connection, information regarding the arrest of human rights defenders following their protests in relation to this incident was previously communicated to your Excellency's government on 13 August 2009 by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. The human rights defenders mentioned in the communication are Mrs. Phanjoubam (ongbi) Sakhi, Mrs. Lourembam (ongbi) Nganbi and Mrs. Yumlembam (ongbi) Mema and leaders of the Working Committee of the Apunba Lup, Mr. Karam Sunil, Mr. Phurailatpam Deban, Mr. Dayananda Chingtham, Mr. Thounaojam Naobi and Mrs. Leimapokpam (ongbi) Nganbi. We regret that no reply has yet been received from your Excellency's Government.

1066. Concern was expressed that the arrests of the above mentioned human rights defenders are directly related to the activities that they carry out in defense of human rights, and for exercising their legitimate right to freedom of opinion and expression in relation to the police shootout in Imphal Town. Further concern was expressed for their physical and psychological integrity while in detention.

Letter of allegations

1067. On 5 November 2009, the Special Rapporteur, together with the Special Rapporteur on situation of human rights defenders, sent a letter of allegations to the Government concerning the situation of **Mr. Chotan Das, Mr. Bhanu Sarkar and Mr. Ramesh Das**. Mr. Chotan Das is the Secretary of the Bandi Mukti Committee (BMC), a committee for the release of political prisoners. Messrs. Sarkar and Ramesh Das are members of the same organization.

1068. According to the information received, on 12 October 2009, Mr. Sarkar and Mr. Ramesh Das were allegedly arrested while pasting up posters calling for the release of Mr. Chhatradhar Mahato of the Lalgarh Movement, which campaigns against police abuses in the Lalgarh region. They were allegedly detained at the Armherst Street Police Station and then transferred to a Police interrogation centre. It is reported that they were interrogated about their links with Maoism and Mr. Mahato before being released.

1069. On 20 October 2009, Mr. Chotan Das was allegedly arrested by a group of policemen. They reportedly forcibly entered his house, brutalized Mr. Das and his wife, seized three mobile phones before bringing Mr. Das to the Kolkata police headquarters. It is reported that Mr. Das was blindfolded during the journey. He was then allegedly questioned by a police officer about his visit to Ranchi, in the Jharkhand State, in relation to judicial proceedings against an alleged

Maoist leader. Mr. Das denied knowing him and was transferred to the Belegkata Police Station before being released.

1070. Concern was expressed that the arrest, detention and questioning of Mr. Chotan Das, Mr. Bhanu Sarkar and Mr. Ramesh Das might be directly related to their legitimate work in defense of human rights. Given the brutal way Mr. Chotan Das was arrested, further concern was expressed about his the physical and psychological integrity.

Urgent appeal

1071. On 5 February 2010, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding **Mr. Devi Singh Rawat**. Mr. Singh Rawat is a lawyer and human rights defender based in Rajasthan, India, working particularly on the issue of torture. From 2006-2008 he worked with the National Project on Prevention of Torture (NPPT) in India, including participation in training sessions.

1072. According to the information received, on 5 January 2010, Mr. Singh Rawat filed a complaint against officers from Adarsh Nagar Police Station in the Ajmer District of Rajasthan, alleging that two individuals, Mr. Gopal Swaroop and a Mr. Rajkumar, had been subjected to acts of torture. He filed his complaint before Judicial Magistrate No. 4, naming police officers Mr. Ramjan Khan, Mr. Sajjan Singh and Mr. Karan Singh as the alleged offenders. The court recorded statements by the complainants and witnesses under sections 200 and 202 of the Code of Criminal Procedure, and adjourned the case until 11 February 2010 to allow for further investigation. The complaint was filed by Mr. Singh Rawat on behalf of a request by the State Law Officer of NPPT.

1073. On 30 January 2010, Mr. Singh Rawat was allegedly summoned by SHO Rajendra Singh Rawat of Adarsh Nagar Police Station, where he was asked to withdraw the complaint, or face consequences as a result. However, Mr. Singh Rawat refused to do so.

1074. On 31 January 2010 at approximately 11:00am, a fight broke out between police officers and members of the public during elections for Panchayati Raj Institution (PRI) (a local governance body) in Palra Village, which falls within the jurisdiction of Adarsh Nagar Police Station. It is reported that several voters who had travelled to Palra from Khajpura village were arrested by Adarsh Nagar police and prevented from casting their votes. The police allegedly attempted to seize their vehicle, leading to a scuffle which developed into a fight between the police and voters. A police vehicle was damaged and several individuals received minor injuries. Approximately 20 people were arrested at the scene and several had charges filed against them.

1075. Mr. Singh Rawat was not present at the scene at the time of the incident, and is resident in another area. He was therefore not reportedly connected in any way to the election under way in Palra village. However, he was arrested later that day, in relation to the violence, at his residence and taken to Adarsh Nagar Police Station. His relatives were not informed of his arrest. It has been reported that the police physically assaulted and abused Mr. Singh Rawat and up to 15 other detainees upon arrival at the police station. Whilst in detention they were forced to remove their clothes and were then photographed. These photographs were later provided to the press.

1076. Mr. Singh Rawat was charged with “Voluntarily causing hurt to deter a public servant from his duty” and “Assault or criminal force to deter a public servant from the discharge of his duty” under Sections 332 and 353 of the Indian Penal Code (IPC) and under Section 3 of the Protection Against Property Damage Act for “mischief causing damage to public property”.

1077. During a hearing to remand the detainees into custody on 1 February 2010, a bail application was filed on behalf of Mr. Singh Rawat. The hearing was held before Judicial Magistrate No. 5, Mr. Mhendra Dabi, as the presiding officer of the original Jurisdictional Court No 4, Mrs Neelam Sharma, was on leave. Mr Mhendra Dabi refused Mr. Singh Rawat’s bail application and remanded the detainees into custody until 11 February 2010.

1078. A second bail application was filed later the same day before a District and Sessions Judge under Section 439 of the Criminal Procedure Code. At a hearing at 2:00p.m on 2 February 2010, Additional District and Sessions Judge No. 2, Mr. Kamal Bagadi granted bail to Mr Singh Rawat and the other detainees. Mr Singh Rawat and the others were released from the Central Prison in Ajmer at 6:30p.m that evening. Charges remain pending against all of the detainees.

1079. Concern was expressed that the arrest of and charges against Mr Devi Singh Rawat, in addition to his reported ill-treatment while in detention, are related to his work in defence of human rights, particularly his work against torture and for speaking out against violations of human rights by the authorities.

Responses received to communications sent earlier

1080. In a letter dated 23 June 2009, the Government responded to the communication sent on 10 June 2008, concerning Messrs **Henri Tiphagne**, Executive Director of *People’s Watch* and member of the *National Human Rights Commission of India*; **S. Martin**, Regional Law Officer at *People’s Watch*; and **G. Ganesan** and **M.J. Prabakar**, both State Monitoring Officers at the same organization.

1081. The Government examined the complaint and found it to be an incomplete and misleading picture of the actual incident. The Government provided the following information: “On May 29, 2008, a special police party of the Ramanathapuram district, Tamil Nadu, was following a tip-off in an operation in Madurai to arrest two accused, namely Mr. Paruthiveeran and Mr. Selvam, against whom non-bailable warrants had been issued by relevant authorities. Both the accused were also associated with an NGO, People’s Watch, in order to provide themselves with a cover and evade arrest. However, by mistake, the police party arrested a relative of one of the accused, following which People’s Watch intervened with the police and the arrested person was released. Nevertheless, owing to another tip-off, the police deployed two small units around Fathima College, Madurai the next day (i.e. May 30, 2008), where People’s Watch was holding a seminar which the two accused were expected to attend. However, about 20 members of People’s Watch led by Mr. Henri Tiphagne, Mr. Martin, Mr. Ganesan and Mr. Prabhakar accosted one of the two-person police unit outside the venue, enquired after their purpose of deployment and forcibly took them inside the venue, even after the police unit told them about their identity and purpose. This forced the local police Sub-Inspector to reach the venue to sort out the matter. BY the time this issue was settled amicably, another group of People’s Watch members forcibly brought the second three-person police unit, that had been keeping an eye on the venue about 500 metres away, on the charges that the unit had assaulted

some members of People's Watch. Actually, the small second police unit had been manhandled by a large group of People's Watch members led by a local notorious character and proclaimed offender, Mr. Madurai Veeran, who is another relative of one of the two accused associated with People's Watch whom the police units were hoping to arrest. Following this turn of events, another senior police officer reached the spot. Subsequently, the members of People's Watch filed charges against the police, while the assaulted second police unit filed charges against People's Watch members (mentioned in the OHCHR communication), at a local police station. Both the cases are under investigation”.

1082. In a letter dated 25 June 2009, the Government responded to the communication sent on 18 June 2008, concerning Mr **Kirity Roy**.

1083. The Government examined the complaint and found it to be an incomplete and misleading picture of the actual incident. The Government provided the following information: “While organizing a tribunal on 9-10 June 2008, to hear public testimonies on torture, Mr. Kirity Roy also issued letters to serving police officials asking them to attend the event and to submit their versions before the empanelled jury at the tribunal. Accordingly, the state authorities, as per law, issued a letter to Mr. Kirity Roy asking him to furnish any government notification that might have authorized him to issue summons/invitation to police authorities requiring them to appear before the tribunal. Mr. Roy was also asked to produce pertaining to the powers and functions of the tribunal in order to ascertain the legal status of this event. However, no response was received from Mr. Kirity Roy. Nevertheless, some police officers from different police station attended the event and deposed before the tribunal since they have been misled that Mr. Kirity Roy and other members of the tribunal were public servants and operating in an authorized manner. Since Mr. Kirity Roy and his colleagues had violated the law by holding a public tribunal through impersonation as public servants, and without any lawful authorization, despite having been given an opportunity to respond to the queries raised by the state authorities, a case was registered under the relevant sections of the Penal Code. In the course of subsequent investigation, the credentials of Mr. Kirity Roy came under further suspicion when he provided wrong information to the police about the existence of the organization's bank accounts in Indian Overseas Bank, Howrah Branch, Calcutta. Not even a single account was found in the name of the organization at the said bank. On 12 June 2008, a search was conducted at the office premises of Mr. Kirity Roy following a search warrant that was issued by the Chief Metropolitan Magistrate, Calcutta. However, Mr. Kirity Roy and his colleagues again violated the law and obstructed the police officials from executing the warrant. Despite provocative attempts by Mr. Roy, the police was able to execute the search warrant and the search proceedings were videographed to prevent Mr. Roy from indulging in more distortion of the facts”.

Observations

1084. The Special Rapporteur wishes to thank the Government for the responses provided to his communications. The Special Rapporteur regrets that at the time the present report was finalized, no response had been transmitted to a number of communications issued in 2010, 2009, 2008, 2007, 2006, 2005 and 2004. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

Iran (Islamic Republic of)

Urgent appeal

1085. On 19 January 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding Ms **Jinus Sobhani**, member of the Defenders of Human Rights Centre and administrative assistant to both the Defenders of Human Rights Centre and the Center for Clearing Mine Areas.

1086. According to the information received, at 6:30 a.m. on 14 January 2009, the home of Ms Jinus Sobhani was searched by security agents. The security agents seized personal items belonging to Ms Jinus Sobhani and her husband. Following the search of her home, Ms Sobhani was arrested. The place of her detention is currently unknown.

1087. Besides acting as administrative assistant in two NGOs founded by Ms Shirin Ebadi, Nobel Peace Prize laureate, Ms Jinus Sobhani has also written on legal issues for several Iranian publications.

1088. This arrest and detention follows the closure of the Defenders Human Rights Center on 21 December 2008, and the closure of the Center for Clearing Mine Areas on the same day. Both NGOs were founded by Ms Ebadi.

1089. Concern was expressed regarding the physical and psychological integrity of Ms Jinus Sobhani. Further concern was expressed that the search of residence and subsequent arrest, as well as detention at an unknown location of Ms Jinus Sobhani may be related to her legitimate activities in defence of human rights, and may form part of an ongoing campaign of state harassment of Ms Shirin Ebadi and other human rights defenders in Iran.

Urgent appeal

1090. On 13 March 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding Ms. **Roxana Saberi**, aged 31, an American-Iranian national writer and television journalist.

1091. According to the information received, Ms. Roxana Saberi was arrested in late January 2009. Ms. Saberi, who has been living in Iran for six years, filed reports for the BBC, NPR, Fox News and other international news outlets before her press credentials were revoked in 2006 by the Ministry of Culture and Islamic Guidance. In spite of this revocation, she was allowed to report some news stories. Since 2006, Ms. Saberi had been primarily involved in writing a book on Iranian culture and pursuing graduate education.

1092. On 10 February 2009, Ms. Saberi placed a two-minute phone-call to her father, Reza Saberi, who lives in North Dakota, the United States of America, informing him of her detention and urging him not to publicize her arrest. On 5 March 2009, a spokesman for the Iranian Judiciary confirmed that she was being held in Tehran's Evin prison. At the time of submission of the urgent appeal, she remained detained incommunicado.

1093. At the time of submission of the urgent appeal, Ms. Saberi had not yet been charged with a recognizable criminal offense. Fears were expressed that her detention could be in relation to her work as a journalist.

Response from the Government

1094. By a letter dated 8 July 2009, the Government indicated that in 2005, Ms. Saberi's press card was cancelled as a result of her activities in violation of the existing press regulations. Meanwhile, she continued to introduce herself as a registered journalist, without making any request for a new press card. On this basis, she could collect certain information. Law enforcement officials launched an investigation and sent a report to the pertinent judicial authorities. On 1 February 2009, she was summoned to Tehran's Prosecutor's Office to give her statement, and an arrest warrant was issued. She protested against the warrant and the case was sent to the Tehran Criminal Court. Following further review, the warrant was reinstated. In the meantime, information on her financial support by foreign sources for her activities was proven to be true. Consequently, she was sentenced to eight years imprisonment and to return the money received to the Treasury. The sentence was appealed by her lawyers.

1095. She was in the general section of the prison and was in frequent contact with her attorney and members of her family. She also received a number of visits from her family and held a birthday party with her parents in the prison.

1096. The Court of Appeals overruled the initial ruling and commuted her sentence to two years of suspended imprisonment. As a result, she was released from prison and left the country.

Urgent appeal

1097. On 20 May 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding Mr. **Mansour Ossanlu**, head and founding member of the Syndicate of Bus Operators of Tehran and Suburbs (Sandikaye Kargarane Sherkat-e Vahed), a union that campaigns for the rights of workers.

1098. Mr. Ossanlu was the subject of three urgent appeals sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary General on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 16 January 2006, on 4 December 2006, and on 13 July 2007.

1099. According to further information received, Mr. Ossanlu is currently serving a five-year prison sentence after being charged with "acting against national security".

1100. Mr. Ossanlu's professional activities consisted of organizing labour unions, and included the defence of the rights of his co-workers. He has campaigned consistently for government recognition of the right to form independent unions and reportedly he has been repeatedly

targeted as a leader of the campaign for workers' rights in Iran. It is reported that events organized by his Syndicate have been attacked, during which members have been seriously injured.

1101. Mr. Ossanlu, since his detention and the extension of his prison term, has allegedly suffered from serious physical and mental ailments. In addition to eye ailments and open-heart surgery, two of his arteries are clogged. He has undergone several surgeries but is allegedly denied routine specialist health care inside the prison. Due to his condition, the government reportedly appointed a medical examiner; the latter has twice ordered an end to his imprisonment, however this call has been denied by judicial authorities.

1102. Concern was expressed that Mr Mansour Ossanlu's detention might be related to his peaceful work in the defence of human rights, in particular his trade union activities. Further concern was expressed for the physical integrity of Mr Ossanlu.

Urgent appeal

1103. On 16 June 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government concerning the situation of Mr **Abdolfattah Soltani**, a prominent human rights lawyer and founding member of the non-governmental organization Defenders of Human Rights Centre.

1104. Mr Soltani was the subject of several urgent appeals and letters of allegations sent on 4 August 2005, 14 December 2005, 31 March 2006, 8 August 2006, 11 August 2006, 15 November 2007 and 12 November 2008.

1105. According to the information received, on 16 June 2009, a group of plainclothes agents reportedly arrested Mr Soltani in front of his home, and took him to an undisclosed location. The whereabouts of Mr Soltani are currently unknown.

1106. Serious concern was expressed that the arrest and detention of Mr Soltani may be linked to his peaceful human rights activities in defence of human rights, and may form part of a current pattern of harassment against human rights defenders. In view of his incommunicado detention, further concern was expressed for his physical and psychological integrity.

Urgent appeal

1107. On 18 June 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal to the Government regarding the **killing of students Fatemeh Barati, Kasra Sharafi, Mobina Ehterami, Kambiz Sho'a'i and Mohsen Imani**, along with at least seven other protesters and the alleged **arbitrary detention of dozens of opposition activists** following recent elections in the Islamic Republic of Iran.

1108. According to information received, following the re-election of President Mahmoud Ahmadinejad on 13 June 2009, tens of thousands of opposition supporters took to the streets of Tehran and other cities throughout the country contesting the election results. While protests had been largely peaceful, violent clashes with security forces resulted in the death of at least twelve people. Agents of the Revolutionary Guards, paramilitary Basij, and State Security Force (SSF) had reportedly been employing extreme force to suppress protesters by opening fire during demonstrations and using pepper spray and batons to disperse demonstrations. Reports also claimed that plain-clothed security forces were using batons to beat non-violent individuals.

1109. On 15 June 2009, at least seven people were killed during demonstrations in Tehran. Shots were fired at opposition supporters who had defied an official ban to march through the city centre to Azadi (Freedom) Square. Shooting erupted after a group at the protest reportedly attempted to attack a military location in western Tehran. Reports claimed that Basij militiamen, linked to Iran's Revolutionary Guard, may have been responsible for the shooting which resulted in the death of seven protesters.

1110. On 14 June, up to five students including Fatemeh Barati, Kasra Sharafi, Mobina Ehterami, Kambiz Sho'a'i and Mohsen Imani were shot dead when security agents reportedly stormed a dormitory at Tehran University and opened fire. Numerous students were arrested and many others suffered serious injuries during the raid. In another incident on the same day, approximately 100 riot police pursued some 300 students on grounds belonging to the University of Tehran. Pepper spray and tear gas were reportedly used to restrain the student protesters. There were also reports of people arrested at demonstrations in provincial cities including Zahedan, Tabriz, Mashhad, Babol, and Shiraz.

1111. On 13 June, approximately 170 people were arrested during clashes between security forces and hundreds of demonstrators around the Ministry of the Interior and other areas in central Tehran. Those arrested reportedly included leading political figures who were accused by the authorities of having 'orchestrated' the unrest. Some have since been released. Police on motorcycles also reportedly beat opposition supporters who had staged a sit-in in Vanak Square, Tehran to protest the results of the elections.

1112. Access to online news services, and internet sites including social networking internet sites, such as You Tube and Facebook, were reportedly blocked after the election results were announced.

1113. Concern was expressed that the arrests and the use of excessive police force against opposition supporters following the recent elections in the Islamic Republic of Iran may be a direct attempt to stifle freedom of assembly and expression in the country. In view of the events outlined above, concern was expressed for the physical and psychological integrity of demonstrators as well opposition activists.

Urgent appeal

1114. On 10 July 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the situation of human rights defenders, Special Rapporteur on the situation of human rights defenders and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal

to the Government regarding **several hundred people arrested during the protests following the presidential elections on 12 June 2009** in Tehran and other Iranian cities, who remain in detention. They were allegedly arrested by members of the Police, the security forces, the Bassijis or plain-clothes officers of the intelligence service during the demonstrations or at their home. The vast majority of those arrested had been deprived of any contact with members of their family, and had not had access to legal counsel.

1115. Among those allegedly arrested in Tehran were:

1. Alireza Beheshti Shirazi; Editor of Kalameh Sabz newspaper; arrested on 23 June 2009;
2. Sadra Beheshti Shirazi; son of Alireza Beheshti Shirazi; staff of Kalameh Sabz newspaper; arrested on 23 June 2009;
3. Issa Saharkhiz; journalist; member of the Association for the Defense of Freedom of the Press Anjomane Defa az Azadie Matbuat; arrested on 4 July 2009;
4. Mazyar Bahari; Iranian-Canadian; journalist for Newsweek; arrested on 22 June 2009;
5. Ahmad Zeidabadi; journalist; Secretary-General of Sazman-e Advar Tahkim (Alumni of Daftare Tahkim Vahdat student organization); arrested on 14 June 2009;
6. Saeed Leylaz; journalist; former economic manager during President Mohammad Khatami's Government; arrested on 17 June 2009;
7. Mohammad Ghoochani; Editor-in-Chief of Eternad Melli newspaper, official organ of Mehdi Karroubi's party; arrested on 18 June 2009;
8. Bahman Ahmadi Amooei; journalist; reformist; arrested on 20 June 2009;
9. Zhila Bani-Yaghoob; journalist; women's rights activist; arrested on 20 June 2009;
10. Keyvan Samimi; Managing editor of the banned monthly Na'meh; arrested on 14 June 2009;
11. Abdolreza Tajik; journalist and political activist; arrested on 14 June 2009;
12. Mahsa Amrabadi; journalist for Eternad Melli newspaper; arrested on 14 June 2009;
13. Massoud Bastani; editor of the Jomhuriat website; arrested on 5 July 2009;
14. Shokufeh Azar; journalist for the Sarmayeh (Capital) newspaper; arrested on 28 June 2009;
15. Amir-Hossein Mahdavi; journalist and political activist; arrested on 13 June 2009;
16. Mostafa Ghavanloo Qajar; journalist; arrested on 22 June 2009;

17. Behzad Bashou; caricaturist; arrested on 21 June 2009;
18. Mojtaba Tehrani; journalist for Eterned Melli newspaper; arrested on 29 June 2009;
19. Kambiz Nowrouzi; Secretary of the Legal Committee of the Association of Iranian Journalists (Anjomane Senfie Ruznamenegaran Iran); arrested on 28 June 2009;
20. Abdolfattah Soltani; leading member of Iran's Bar Association; member of the Center for Defenders of Human Rights (Kanoon Modafean Hoghooghe Bashar); arrested on 16 June 2009;
21. Shiva Nazar-Ahai; human rights activist; arrested on 14 June 2009;
22. Mohammad-Ali Abtahi; former member of the Majlis (Parliament); supporter of Mehdi Karroubi in the presidential elections; arrested on 16 June 2009;
23. Saeed Hadjarian; member of the Central Committee of Jebhe Mosharekat Iran Eslami (Participation Front); arrested on 15 June 2009;
24. Mohsen Aminzadeh; member of the Central Committee of Jebhe Mosharekat; Head of the Coalition of Reformers' Committee (supporting presidential candidate Mir Hossein Mousavi); arrested on 16 June 2009;
25. Abdollah Ramezanzadeh; member of the Central Committee of Jebhe Mosharekat; spokesperson for Mohammad Khatami's Government; arrested on 14 June 2009;
26. Mohsen Mirdamadi; Secretary-General of Jebhe Mosharekat; arrested on 20 June 2009;
27. Mohsen Safai Farahani; member of the Executive Committee of Jebhe Mosharekat; arrested on 20 June 2009;
28. Dawood Soleimani; member of the Executive Committee of Jebhe Mosharekat; arrested on 20 June 2009;
29. Ali Tajernia; member of the Executive Committee of Jebhe Mosharekat; arrested on 20 June 2009;
30. Saeed Shirkavand; Deputy Minister of Economy in Mohammad Khatami's Government; member of the Executive Committee of Jebhe Mosharekat; arrested on 20 June 2009;
31. Shahab Tabataba'i; Head of the Youth Committee of support of Mousavi; member of the Executive Committee of Jebhe Mosharekat; arrested on 20 June 2009;
32. Ali Asqar Khodayari; former member of the Executive Committee of Jebhe Mosharekat; arrested on 14 June 2009;

33. Saeed Noor-Mohammadi; member of the Youth Division of Jebhe Mosharekat; arrested on 20 June 2009;
34. Reza Homayi; member of Jebhe Mosharekat; arrested on 23 June 2009;
35. Zoya Hassani; member of Jebhe Mosharekat; arrested on 30 June 2009;
36. Saeedeh Kordinejad; member of Jebhe Mosharekat; arrested on 30 June 2009;
37. Morteza Owsati; member of Jebhe Mosharekat; arrested on 30 June 2009;
38. Behzad Nabavi; member of the Central Council of the Organization for the Mojahedin of the Islamic Revolution (Sazemane Mojahedin-e Enghelab Eslami); member of Jebhe Mosharekat; arrested on 13 June 2009;
39. Mostafda Tajzadeh; member of the Central Council of the Organization for the Mojahedin of the Islamic Revolution (Sazemane Mojahedin-e Enghelab Eslami); member of Jebhe Mosharekat; arrested on 14 June 2009;
40. Mohammad Javad Imam; Head of the Elections Committee in Tehran of the Organization for the Mojahedin of the Islamic Revolution (Sazemane Mojahedin-e Enghelab Eslami); arrested on 30 June 2009;
41. Shahab Pour-Ghasemi; member of the Mojahedin of the Islamic Revolution (Sazemane Mojahedin-e Enghelab Eslami); arrested on 20 June 2009;
42. Majid Nayeri; member of the Tehran Council of the Organization for the Mojahedin of the Islamic Revolution (Sazemane Mojahedin-e Enghelab Eslami); arrested on 20 June 2009;
43. Sadegh Nowruzi; Head of the Political Council of the Organization for the Mojahedin of the Islamic Revolution (Sazemane Mojahedin-e Enghelab Eslami); arrested on 20 June 2009;
44. Mohammad Atrianfar; member of the Central Council of the Hezbe Kargozaran Sazandeghi-e Iran (Party for the Executives of Construction of Iran); arrested on 14 June 2009;
45. Hedayatallah Aghai; member of the Central Council of the Hezbe Kargozaran Sazandeghi-e Iran (Party for the Executives of Construction of Iran); arrested on 18 June 2009;
46. Jahanbakhsh Khanjani; member of the Hezbe Kargozaran Sazandeghi-e Iran (Party for the Executives of Construction of Iran); spokesperson for the Ministry of the Interior during Mohammad Khatami's Government; arrested on 14 June 2009;
47. Mohammad Tavasoli; Head of the Political Office of Nehzat Azadi-e Iran (Freedom Movement of Iran); arrested on 16 June 2009;

48. Emad Bahavar; Head of the Youth Division of Nehzat Azadi-e Iran (Freedom Movement of Iran); arrested on 27 May 2009;
49. Mohammad Bagher Alavi; member of Nehzat Azadi-e Iran (Freedom Movement of Iran); arrested on 21 June 2009;
50. Mojataba Khandan; member of the Youth Division of Nehzat Azadi-e Iran (Freedom Movement of Iran); arrested on 13 June 2009
51. Saeed Zeraatkar; member of the Youth Division of Nehzat Azadi-e Iran (Freedom Movement of Iran); arrested on 13 June 2009;
52. Mohammad-Reza Ahmadiania; member of the Youth Division of Nehzat Azadi-e Iran (Freedom Movement of Iran); arrested on 13 June 2009;
53. Ahmad Afchel; member of the Youth Division of Nehzat Azadi-e Iran (Freedom Movement of Iran); arrested on 13 June 2009;
54. Ruhollah Shafii; member of the Youth Division of Nehzat Azadi-e Iran (Freedom Movement of Iran); arrested on 13 June 2009;
55. Ali Mehrdad; member of the Youth Division of Nehzat Azadi-e Iran (Freedom Movement of Iran); arrested on 13 June 2009;
56. Kursoh Zaeim; member of the Central Council of Jebhe Melli-e Iran (National Front of Iran); arrested on 21 June 2009;
57. Mahmud Ebrahimi; member of Hezbe Hambastegi (Solidarity Party); arrested on 17 June 2009;
58. Ali-Reza Hashemi; Secretary-General of the Iran's Teachers Association (Sazemane Moaleman Iran); arrested on 17 June 2009;
59. Mohsen Hakimi; labor activist and member of the Iran Writers Association (Kanoon Nevisandeghan Iran); arrested on 23 June 2009;
60. Mehdi Khazali; manager of Hayyan publication; arrested on 29 June 2009;
61. Hassan Moadikhah; manager of Zarreh publication; arrested on 17 June 2009;
62. Seyed Khalil Mir-Ashrafi; graphist and movie editor; arrested on 17 June 2009;
63. Hossein Delir; cinema director; arrested on 22 June 2009;
64. Mohammad-Reza Jalaipour; spokesperson for Moje Sevorn (Third Wave) Campaign and Mir Hossein Mousavi supporter; arrested on 17 June 2009;
65. Somaye Tohidloo; web-blogger supporting Mir Hossein Mousavi; political activist; arrested on 14 June 2009;

66. Jalal Mohammadio; member of Moje Sevorn (Third Wave) Campaign and Mir Hossein Mousavi supporter; arrested on 30 June 2009;
67. Hamzeh Ghalebi; Head of the Youth Section at Mir Hossein Mousavi's campaign headquarters; arrested on 20 June 2009;
68. Ehsan Bakery; member of Mir Hossein Mousavi's election campaign team; arrested on 20 June 2009;
69. Ahmad Moradi; member of Mir Hossein Mousavi's election campaign team; arrested on 17 June 2009;
70. Ali Mohaghar; member of Mir Hossein Mousavi's election campaign team; arrested on 16 June 2009;
71. Ali Vafghi; member of Mir Hossein Mousavi's election campaign team; arrested on 20 June 2009;
72. Kaveh Servati; activist supporting Mir Hossein Mousavi; arrested on 18 June 2009;
73. Abdollah Momeni; spokesperson for Sazemane Advare Tahkim Vahdat (Alumni of the Daftare Tahkim Vahdat student organization); arrested on 20 June 2009;
74. Hamed Iranshahi; member of the policy group of Sazemane Advare Tahkim Vahdat (Alumni of the Daftare Tahkim Vahdat student organization); arrested on 16 June 2009;
75. Mohammad Ghaem-Maghani; member of Sazemane Advare Tahkim Vahdat (Alumni of the Daftare Tahkim Vahdat student organization); arrested on 22 June 2009;
76. Peyman Aref; member of the student division of Jebhe Melli Iran (Iran's National Front); arrested on 18 June 2009;
77. Seyed Mohammad Bagher Oskoui; leading member of the Youth Division of Mehdi Karrubi's election campaign team; arrested on 15 June 2009;

Allegedly kept in detention in Rasht:

78. Mojtaba Pour-Mohsen; editor of Gilan Emrouz newspaper; arrested on 15 June 2009;

Allegedly arrested in Karaj:

79. Fariborz Soroush; journalist; arrested on 16 June 2009;

Among those allegedly arrested in Bushehr were:

80. Amanollah Shodjaji; journalist; arrested on 21 June 2009;
81. Mashallah Heydarzadeh; journalist; arrested on 21 June 2009;

82. Hossein Shokuhi; journalist; arrested on 21 June 2009;
83. Hamideh Mahouzi; journalist; arrested on 21 June 2009;

Persons allegedly arrested in Ahvaz:

84. Abolfazl Abedini; human rights activist; arrested on 30 June 2009;
85. Sajad Taherzadeh; Secretary of the Islamic Student Association of the Oil College; arrested on 2 July 2009;
86. Sahand Bakhtiarpour; former Secretary of the Islamic Student Association of the Oil College, arrested on 2 July 2009;

Allegedly arrested in the Holy City of Qom:

87. Abbas Kousha; member of the Political Office of Jebhe Mosharekat; arrested on 30 June 2009;

Allegedly arrested in Bandar Abbas:

88. Javid Ramezanzpour; Head of Hormozgan Region Council in Jebhe Mosharekat (Participation Front); arrested on 15 June 2009;
89. Mansu Nabizadeh; Commander of the Hormozgan Province Army Division during the Iran-Iraq war and member of Mir Hossein Mousavi's campaign team in the Hormozgan Province; arrested on 17 June 2009;
90. Ahmad Moradi; member of Mir Hossein Mousavi's campaign team in the Hormozgan Province; arrested on 17 June 2009;

Allegedly arrested in Isfahan:

91. Mohsen Bastani; in charge of Isfahan Affairs at Sazeman-e Mojahedin-e Engelab; arrested on 17 June 2009;

Persons allegedly arrested in Tabriz:

92. Ghafar Farzadi; responsible for East Azerbaijan Province in Nehzat-e Azadi; arrested on 21 June 2009;
93. Majid Jaberi; member of Nehzat-e Azadi; arrested on 17 June 2009;
94. Rahmatollah Amiri; member of Nehzat-e Azadi; arrested on 17 June 2009;
95. Ruhollah Rahimpour; member of Nehzat-e Azadi; arrested on 15 June 2009;
96. Amir-Hossein Jahani; member of Nehzat-e Azadi; arrested on 15 June 2009;
97. Ali-Ashraf Soltaniazar; member of Nehzat-e Azadi; arrested on 15 June 2009;

98. Rahim Yavari; member of Nehzat-e Azadi; arrested on 15 June 2009;
99. Jalil Sharbayanloo; activist for the Melli-Mazhabi (Nationalist-Religious) political opposition group; arrested on 21 June 2009;
100. Mosatafa Saket; Secretary of Sazmane Advare Tahkim in East Azerbaijan Province; arrested on 17 June 2009;

Allegedly arrested in Fooman:

101. Reza Kazemi; activist for the Melli-Mazhabi opposition group; arrested on 21 June 2009;

Allegedly arrested in Hamedan:

102. Hadi Ehtezazi; activist for the Melli-Mazhabi opposition group; arrested on 19 June 2009;
103. Hossein Mojahed; Secretary-General of Hezbe Jame-e Madani (Civil Society Party); arrested on 16 June 2009;
104. Mohammad Sayyadi; member of the Islamic Student Association of Bu-Ali University; arrested on 16 June 2009;

People arrested in Mashhad:

105. Seyed Hashem Khastar; labor activist; arrested on 19 June 2009;
106. Ruhollah Shahsavari; Head of Setade 99 (Committee 88, supporting Mir Hossein Mousavi) in the Khorasan Razavi Province; arrested on 17 June 2009;
107. Mohsen Roozbahan; member of Mir Hossein Mousavi's election campaign team in the Khorasan Razavi Province; arrested on 17 June 2009;
108. Amir Eghtenai; Head of the Khorasan Province in Sazmane Advar Tahkim; arrested on 18 June 2009;

Allegedly arrested in Amol:

109. Mousa Rajayi; dissident cleric; arrested on 17 June 2009;

Persons arrested in Zanjan:

110. Jalal Bahrami; member of the student division of Mir Hossein Mousavi's election campaign team; arrested on 20 June 2009;
111. Reza Arjini; member of the student division of Mir Hossein Mousavi's election campaign team; arrested on 20 June 2009;

112. Sadegh Rasooli; member of the student division of Mir Hossein Mousavi's election campaign team; arrested on 20 June 2009;
113. Alireza Babaloo; member of the Islamic Student Association of the Zanjan University; arrested on 15 June 2009;
114. Mansur Vafa; member of the student division of Mir Hossein Mousavi's election campaign team; arrested on 21 June 2009;

Allegedly arrested in Qazvin:

115. Hossein Reisian; Professor of the Imam Khomeini International University; arrested on 19 June 2009;

Allegedly arrested in Babolsar:

116. Reza Arab; Secretary of the Islamic Student Association of Mazandaran University; arrested on 30 June 2009;

Allegedly arrested in Zahedan:

117. Shahryar Hosseinbar; leader of the student division of Mehdi Karroubi's election campaign team in the Sistan and Baluchistan Province; arrested on 14 June 2009;

Allegedly arrested in Kish Island:

118. Hossein Zamani; Pop singer; arrested on 16 June 2009.

1116. Concerns were expressed that the aforementioned individuals may be subjected to torture or other forms of ill-treatment, notably to extract confessions on public TV channels acknowledging that they have been manipulated by foreign countries.

Urgent appeal

1117. On 13 July 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the right to education, sent an urgent appeal to the Government regarding Ms. **Clotilde Reiss**, a 23-year-old graduate from Lille Political Sciences Institute and an assistant teacher at Isfahan University.

1118. According to the information received, Ms. Clotilde Reiss was arrested on Wednesday, 1 July 2009, at Mehrabat Tehran Airport by security agents, when she was on her way home to France. She was taken to Evin prison. French consular authorities, who were notified on 2 July of her arrest, had been in regular contact by telephone, but had not yet been able to visit her. It was further reported that Ms. Reiss had been accused of espionage solely because custom officers found in her mobile telephone some photographs of the demonstrations which took place in Isfahan in the aftermath of the June 12 presidential elections.

1119. Fears were expressed for her physical and psychological integrity.

Urgent appeal

1120. On 14 July 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding Mr. **Maziar Bahari**, a leading Canadian-Iranian editor, playwright, film-maker and journalist with Newsweek.

1121. According to information received, on 21 June 2009, at approximately 7.00 a.m., Mr Maziar Bahari was arrested by security officers at his home in Tehran. He was reportedly being held incommunicado without charge at Tehran's Evin prison where he had no access to legal representation or his family, apart from two short phone-calls to his mother.

1122. Reports claimed that an Iranian state news agency, Fars News, published a confession in which Mr Bahari admitted to participating in an alleged Western media effort to promote irresponsible reporting in Iran. Prior to his arrest, Mr. Bahari filmed protesters attacking Basij neighbourhood headquarters in Tehran before they were fired upon. Edited footage, which was aired on the BBC's Channel 4 News in the UK, apparently did not show the full contents of Mr Bahari's report and omitted the clip of the protesters attacking the aforementioned Basij headquarters.

1123. Concern was expressed that the arrest and detention of Mr. Maziar Bahari may represent a direct attempt to prevent independent reporting in the Islamic Republic of Iran, particularly in the aftermath of the Presidential elections.

Urgent appeal

1124. On 16 July 2009, the Special Rapporteur, together with the by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding Mr **Mohammad Ali Dadkhah**, Ms **Sara Sabaghian**, Ms **Bahareh Davallou**, Mr **Amir Raisian** and Ms **Maliheh Dadkhah**. Mr Dadkhah is a lawyer and founding member of the Defenders of Human Rights Centre (DHRC). Ms Sabaghian, Ms Davallou and Mr Raisian are also lawyers.

1125. According to the information received, on 8 July 2009, at approximately 4.00 p.m., three individuals in civilian clothing, entered the law firm of Mr Dadkhah, without presenting an arrest warrant, and arrested Mr Mohammad Ali Dadkhah, along with other lawyers, Ms Sara Sabaghian, Ms Bahareh Davallou and Mr Amir Raisian. The daughter of Mr Dadkhah, Ms Malileh Dadkhah was also arrested. The law firm was subsequently closed.

1126. The whereabouts of Mr Mohammad Ali Dadkhah, Ms Sara Sabaghian, Ms Bahareh Davallou, Mr Amir Raisian and Ms Maliheh Dadkhah are currently unknown.

1127. Concern was expressed that the arrest and incommunicado detention of Mr Mohammad Ali Dadkhah, Ms Sara Sabaghian, Ms Bahareh Davallou, Mr Amir Raisian and Ms Maliheh Dadkhah may be related to their work in the defence of human rights, in particular Mr

Dadkhah's criticism of the use of the death penalty and the execution of several persons on 3 July 2009 on drug trafficking charges. Serious concern was expressed regarding their physical and psychological integrity in light of their incommunicado detention. Further concern was expressed given that Mr Mohammad Ali Dadkhah is the third member of the DHRC currently in detention, along with Mr Abdolfattah Soltani and Ms Mohammad Reza Tajik.

Urgent appeal

1128. On 16 July 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding Mr. **Abdolfattah Soltani**, a lawyer at the Bar Association of Tehran, a founding member of the Defenders of Human Rights Centre (DHRC) and a long-standing Iranian human rights defender.

1129. Following our joint urgent appeal of 18 June 2009, we have now received new information concerning the detention of Mr. Abdolfattah Soltani. Mr. Soltani was reportedly arrested on 16 June 2009 in front of his home in Tehran by four security service agents in plainclothes, who handcuffed him and brought him with them. His whereabouts were not communicated to his relatives until 9 July 2009, when they were informed that Mr. Soltani was being held in Section 209 of Evin prison in Tehran. Section 209 is reportedly a part of the prison run by the Ministry of Intelligence, where political prisoners are detained.

1130. No charges have been brought against Mr. Soltani so far. He has not been presented before a judge.

1131. It was further alleged that Mr. Soltani, who has already been detained and repressed on several occasions in the past, is being kept in detention merely in order to prevent him from carrying out his human rights activities, which he is fully entitled to develop according to the Declaration on Human Rights Defenders, adopted on 9 December 1998 by the United Nations General Assembly.

1132. Fears had been expressed for Mr. Soltani's physical and psychological integrity.

Urgent appeal

1133. On 21 July 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal to the Government regarding Ms. **Shadi Sadr**, a lawyer and human rights activist.

1134. Ms. Sadr was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 10 February 2004, an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and

consequences and the Special Representative of the Secretary-General on the situation of human rights defenders on 7 March 2007, and an urgent appeal sent by the Special Rapporteur on violence against women, its causes and consequences on 14 March 2007. No reply was received from the Government to these communications

1135. According to the information received, in the morning of 17 July 2009, Ms. Shadi Sadr was arrested in Tehran by unidentified plain clothed men on her way to Friday prayers. Ms. Sadr was accompanied by other activists for women's rights when the men pulled her into a car in a busy area of Tehran. She managed to briefly abscond, however, was swiftly reapprehended and beaten with batons by the men before taken away in the car to an unknown location.

1136. It was alleged that Ms. Sadr's arrest forms part of a pattern of arrests of high profile Iranian civil society representatives in the wake of the presidential election.

Urgent appeal

1137. On 11 August 2009, the Special Rapporteur, together with the Vice-Chairperson Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment., sent an urgent appeal to the Government regarding the **alleged torture, ill-treatment, forced confessions and the death of a detainee arrested following the presidential election of 12 June.**

1138. According to the information received, human rights defenders, members of the opposition, lawyers, journalists and others who have been arrested following the presidential election continue to be subjected to beatings, harsh interrogations and torture. Detainees are forced to stand for 48 hours and are beaten with batons. Mr. Majid Sh. was arrested soon after the elections by the Intelligence Ministry, blindfolded and taken to a secret location. He was severely beaten, stripped of his clothes and forced to hang from the ceiling with his hands tied, while he was burnt across his body with a hot iron rod. He was released 24 hours later.

1139. Interrogations take place under the direct sun, with temperatures exceeding 40 degrees, followed by the detainees being drenched with ice water. After the beatings and interrogations, the detainees are forced to sign blank statements, where they have confessed to various crimes such as acting against national security, rioting, having ties with counter-revolutionary groups and treason. According to media reports, the Iranian authorities have indicated that most of the prominent detainees have already confessed to such crimes. The confessions obtained through these means are reportedly being used in the on-going trials against more than 100 accused of the crimes mentioned above.

1140. Mr. Avir Javadifar, a student at the Free University at Qazvin was arrested by the Security Services on 9 July and was severely beaten. He was taken to the hospital and then taken to an unknown place. His family was later asked to identify his body at the Kahrizan prison. They were told that Mr. Javadifar's death had been caused by an accident.

1141. Other detainees remain in incommunicado detention, without any charges having been laid against them and unable to see their lawyers or families or to obtain medical assistance. Many of those who are released have their bodies covered with bruises.

1142. There have also been reports that the families of those who have been killed in the aftermath of the elections are given false information regarding their death. In this context it is reported that:

- Mr. Avir Javadifar's family was told that his death had been caused by an accident, although he allegedly died while in custody.
- Mr. Davoud Sadri died as a result of gunshot wounds he received from the Basij forces during a public protest. He was taken to Rasoule Akram Hospital, where he died hours later. His family looked for him during five days, receiving contradictory information from the authorities regarding how he had died and where his body was kept. The authorities finally announced his death to the family, but refused to give them the body.

1143. In light of the above-mentioned facts, concern was expressed for the physical and psychological integrity of those in detention.

Urgent appeal

1144. On 11 November 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Chairperson-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding **Mr. Hassin Assadi Zibadabi**, **Mr. Behnam Nikzad**, and **Ms. Nafiseh Zare Kohan**.

1145. According to the information received, on 3 November 2009, Mr. Hassin Assadi Zidabadi, who heads a student human rights committee, was arrested by security forces. The following day, Mr. Niels Kroghsgaard, a Danish journalism student, as well as Mr. Farhad Pouladi, Mr. Behnam Nikzad, and Ms. Nafiseh Zare Kohan, all journalists, were also arrested by security forces. All the arrests took place while they were covering the demonstrations on the occasion of the 30th anniversary of the events concerning the siege of the embassy of the United States of America in Tehran. It is believed that Mr. Kroghsgaard and Mr. Pouladi were released, but the families of Mr. Assadi Zibadabi, Mr. Nikzad and Mr. Zare Kohan have not been able to obtain any information on their whereabouts since their arrests.

1146. Concern was expressed about the physical and psychological integrity of Mr. Hassin Assadi Zibadabi, Mr. Behnam Nikzad, and Ms. Nafiseh Zare Kohan, in light of the reported fact that their fate and whereabouts remain unknown.

Letter of allegations

1147. On 12 November 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations to the Government concerning **Mr. Emad Baghi**, journalist and founder of the Centre for Defence of Prisoners' Rights.

1148. Mr. Baghi has been the subject of numerous communications sent to your Government, including the letters dated 21 January 2008, 24 October 2007, 21 August 2007, 5 October 2004, and 11 March 2004. We acknowledge the receipt of responses from the Government dated 14 February 2008 and 24 May 2005.

1149. According to new information received, on 2 November, Mr. Baghi was scheduled to receive the Martin Ennals Award for Human Rights Defenders in Geneva, Switzerland. However, he was allegedly prevented from receiving his passport in the Islamic Republic of Iran and was thus not able to travel to Switzerland to receive his award. He was also reportedly prevented from travelling to London to receive the International Journalist of the Year award in April 2008, and has not been permitted to leave the country since October 2004.

1150. Concern was expressed that Mr. Baghi has been prevented from travelling abroad as a result of exercising his right to freedom of opinion and expression as a journalist and human rights defender.

Urgent appeal

1151. On 4 December 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government regarding Mr. **Kian Tajbakhsh**, a social scientist and senior research fellow at the New School in New York who previously worked as a consultant for the Open Society Institute and the World Bank. Mr. Tajbakhsh is a dual Iranian-American citizen.

1152. The Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture and the then Special Representative of the Secretary-General on the situation of human rights defenders sent a joint urgent appeal concerning Mr. Tajbakhsh on 9 July 2007. A response from your Excellency's Government was received on 12 August 2009.

1153. According to new information received, on 9 July 2009 at around 9:00 p.m., Mr. Kian Tajbakhsh was arrested by two individuals who identified themselves as security officials. After an extensive search of his apartment and questioning, he was taken into detention at an unknown location. He was subsequently charged with acting against national security due to his participation in Gulf2000, an internet forum and mailing list hosted by Columbia University, and due to his previous consultancy work with the Open Society Institute.

1154. On 1 August 2009, Mr. Kian Tajbakhsh was among the approximately 100 defendants presented before the court on charges of acting against national security.

1155. On 20 October 2009, Mr. Tajbakhsh was sentenced by the Revolutionary Court to 15 years in prison.

1156. On 29 October 2009, his court-appointed lawyer was denied the possibility to file an appeal on his behalf.

1157. On 23 November 2009, new charges against Mr. Tajbakhsh had been introduced by the Revolutionary Court. The judge of the Revolutionary Court allegedly charged him with espionage for the Open Society Institute.

1158. Mr. Kian Tajbakhsh has been repeatedly denied access to a lawyer during his pre-trial detention period. A request for a trial lawyer of his choice had also been denied. The court assigned him a lawyer at the trial, but there was insufficient time to prepare for the defence; it appears that the lawyer assigned to Mr. Tajbakhsh did not represent him properly at the trial.

1159. Concern was expressed that the arrest, detention and subsequent sentencing of Mr. Kian Tajbakhsh may be related to his peaceful activities in defence of human rights. Further concern was expressed that Mr. Kian Tajbakhsh did not have access to an independent lawyer during his trial and that he was denied the possibility of lodging an appeal against his sentence. Further serious concern was expressed since the new charges presented on 23 November 2009 against Mr. Kian Tajbakhsh may carry the death penalty.

Urgent appeal

1160. On 21 December 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal concerning **Mr. Jafar Ebadi, Ms Noushin Ebadi, Mr. Javad Tavassolian**, who are family members of Ms. Shirin Ebadi, Nobel Peace Prize Laureate and prominent human rights defender.

1161. According to information received, on 18 December 2009, Mr. Jafar Ebadi, the brother of Ms. Shirin Ebadi, was interrogated in the Ministry of Information for about two hours. He has allegedly been put under severe pressure to confess that Ms. Shirin Ebadi's statement about the confiscation of her Nobel Peace Prize by the Iranian Government was not true and that the husband of Ms. Ebadi, Mr. Javad Tavassolian, had not been beaten.

1162. Ms. Noushin Ebadi, who is the sister of Ms. Shirin Ebadi, received a phone call from the Ministry of Information on the same day, summoning her to the Ministry. When she refused to comply, she was allegedly threatened that she would be arrested next week.

1163. The Nobel Peace Prize medal and accompanying diploma, as well as Ms. Ebadi's French Legion d'Honneur award and a ring given her by the German association of journalists were allegedly seized early November 2009 from a safe deposit box in Tejarat Bank in Tehran. Moreover, Ms. Ebadi's financial accounts have also been frozen, on charges that she had failed to pay taxes on her Nobel Peace Prize award, although the award is exempt from tax under Iranian law.

1164. Concern was expressed that the interrogation and intimidation of family members of Ms. Shirin Ebadi might be in connection with her activities in defence of human rights, and her public statements denouncing the confiscation of her awards and the freezing of her accounts by the Government of the Islamic Republic of Iran. Further serious concern was expressed regarding the psychological and physical integrity of Ms. Shirin Ebadi and members of her family.

Urgent appeal

1165. On 29 December 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on extrajudicial, summary or arbitrary killings, sent an urgent appeal to the Government regarding the use of excessive force by the security forces and the Basij militia against demonstrators on 27 December 2009, alleged arbitrary arrests and the suppression of (at least initially) peaceful assemblies.

1166. The mandate-holders urged the Government to ensure respect for international law guaranteeing the right to life, the right to physical and mental integrity, freedom of opinion and expression and freedom from arbitrary detention.

1167. According to information received regarding the events of 27 December 2009, widespread protests broke out in Tehran, Mashhad, Isfahan, Shiraz, Tabriz, Qom and several other cities in Iran on 27 December 2009. Reports and videos indicated that Basij militia and security forces attacked protesters using excessive force and live ammunition. Near Daneshjoo Park in Tehran, for instance, members of the Basij militia beat demonstrators with batons, wood sticks and metal pipes, killing at least one person. As this demonstrator's dead body was moved through the crowd, other demonstrators started attacking the Basij members, brought several of them down from their motorcycles, and set vehicles of the security forces on fire. In an unspecified location, security forces tied a young protestor to the back of a van and dragged him on the asphalt. Other demonstrators attacked the van, took the passengers out and set the van on fire.

1168. In Enqelab Street and at Pol-e College in Tehran security forces used live ammunition against protesters. Three persons were reportedly killed at Pol-e college. Mr. Seyd Ali Moussavi, aged 35 and nephew of Mr. Mir Hossein Moussavi, an opposition candidate for president in the recent elections, was shot in the back, apparently injuring his heart, and killed by security forces at around noon in Enqelab Square.

1169. Reports further indicated that four protesters were killed in Tabriz. Reports vary as to the overall death toll on 27 December 2009, fifteen dead being the highest number indicated in reports the mandate-holders had received.

1170. About 300 persons were arrested on 27 December 2009. They included three advisers to Mir Hossein Moussavi, namely Mr. Alireza Beheshti, Mr. Ghorban Behzadian-Nejad and Mr. Mohammad Bagherian, and two aides to the former President Mr. Mohammad Khatami, Mr. Morteza Haji and Mr. Hasan Rasooli. In the early morning hours of 28 December, Mr. Ebrahim Yazdi, aged 78, a former foreign minister and now leader of the Freedom Movement of Iran, was arrested.

1171. According to information received regarding the events from 15 June to the end of August 2009, on 13 June 2009, approximately 170 people were arrested during clashes between security forces and hundreds of demonstrators around the Ministry of the Interior and other areas in central Tehran. Those arrested reportedly included leading political figures who were accused by the authorities of having 'orchestrated' the unrest. Some had been released by 18 June 2009. Police on motorcycles also reportedly beat opposition supporters who had staged a sit-in in Vanak Square, Tehran, to protest the results of the elections.

1172. On 14 June, up to five students including Fatemeh Barati, Kasra Sharafi, Mobina Ehterami, Kambiz Sho'a'i and Mohsen Imani were shot dead when security agents reportedly stormed a dormitory at Tehran University and opened fire. Numerous students were arrested and many others suffered serious injuries during the raid. In another incident on the same day, approximately 100 riot police pursued some 300 students on grounds belonging to the University of Tehran. Pepper spray and tear gas were reportedly used to restrain the student protesters. Protestors were arrested also at demonstrations in provincial cities such as Zahedan, Tabriz, Mashhad, Babol, and Shiraz.

1173. On 15 June, members of the Basij militia opened fire in the Velenjak, Jordan and Darous districts of Tehran. A video taken on 15 June 2009 shows a member of the Basij firing towards demonstrators from a building used by the Basij. At least seven persons were killed on that day.

1174. On 20 June, Ms. Neda Agha Soltani was shot on Khosravi street in Tehran. The bullet hit her chest just below the collar bone, and she died within a minute. Although she was immediately taken to Shariati hospital, where her death was confirmed, no autopsy was carried out before she was buried at Behesht-e Zahra cemetery. A member of the Basij militia is reported to have exclaimed at the scene of the shooting "I did not mean to kill her!" His identity is known in Iran, as his ID card was grabbed by witnesses and a picture of it posted online.

1175. Also on 20 June, opposite the Navvab metro station in Tehran, members of the Basij militia opened fire from the roof of the Lolagar mosque at persons in the street with Kalashnikovs and Heckler & Koch G3 guns. A young boy was hit in the head and his brain spattered on the platform outside the metro station. A young man was hit in the throat by a tear gas bullet and died on the spot.

1176. On 22 June, the Office of the Prosecutor General stated that it had started an investigation into the killings on 20 June. More than half a year later, no results of that investigation have been made public.

1177. On 25 June, Basij militia on the roof of the Lolagar mosque shot and killed Mr. Ya'qoub Barvayeh, a student aged 27. The Basij militia removed the body. His family was told two days later where he was buried.

1178. On 30 July 2009, Ali Reza Tavassoli, aged 12, was killed by blows in the head inflicted by Basij militia men at a demonstration to commemorate the 40th day since the death of Neda Agha Soltani. Members of the Basij militia removed his body from hospital.

1179. The authorities reported that 36 persons died during the unrest following the elections, including members of the Basij militia, but family members of persons who went missing and

who inquired with the authorities, reported that they were shown albums containing photographs of hundreds of corpses in makeshift morgues. According to one source, 200 demonstrators were killed in Tehran and 173 in other cities.

1180. On 25 August 2009, a Member of the Article 90 Commission of the Parliament requested an official investigation into reports that 44 bodies of killed protesters had been buried secretly at night in anonymous graves in section 302 of the Behesht-e Zahra cemetery in Tehran. The chief administrator of the cemetery stated that the bodies were those of unknown victims of car accidents and drug overdoses. He was subsequently removed from his post by the Tehran city administration. The outcome of the investigation into the reports of anonymous graves section 302 of the Behesht-e Zahra cemetery was not known.

Letter of allegations

1181. On 6 January 2010, the Special Rapporteur sent a letter of allegations concerning censorship measures taken prior to and during the demonstrations on 7 December, including the closure of the daily Hayate No, the establishment of a new Web Crime Unit, and ongoing concerns regarding the situation of journalists, bloggers and persons who express their views which are critical of the Government in the Islamic Republic of Iran.

1182. According to information received, several days prior to the National Students Day on 7 December 2009, various censorship measures were allegedly implemented to limit the access and flow of information. On 5 December, Internet connections were reportedly blocked or slow, particularly in Tehran, Isfahan and Shiraz, and various websites, in particular those that relay views that are supportive of the opposition leader Mr. Mir Hossein Mousavi, such as Ayandeneews and Mizanews. Reports also claim that it was impossible to browse or send e-mails.

1183. Before and during the demonstrations, mobile phone connections and Short Message Service (SMS) were also reportedly suspended or jammed. In addition, demonstrators who were using mobile phones to take photographs or to film the events were also allegedly arrested or had their phones seized by security forces.

1184. On 8 December, following the demonstrations on the previous day, the daily Hayate No. was closed down after the Press Supervisory Board allegedly revoked the license of the newspaper for “working outside the regulations”. Reports claim that no details of the alleged violations of the regulations were provided by the Press Supervisory Board. According to information received, more than ten national dailies have been closed down after publishing articles that are not in line with official policies, including Kalamah Sabz (13 June), Etemad-e Melli (17 August) and Sarmayeh (2 November).

1185. On 17 November 2009, a new 12-member Web Crime Unit was launched to police the Internet for “insults and lies”, which is a term often used by the judiciary to describe statements opposing the Government. This unit will reportedly search the web for cyber crimes and report them directly to the Chief Prosecutor.

1186. Concern was expressed that such measures represent an attempt to stifle independent reporting in the Islamic Republic of Iran. Further concern was expressed regarding the situation of journalists, bloggers and persons who express views which are critical of your Government, given the fact that 28 journalists and bloggers allegedly remain in detention in the Islamic Republic of Iran, and approximately fifty persons have fled the country to seek exile.

Urgent appeal

1187. On 7 January 2010, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal regarding the **arrest and incommunicado detention of a large number of human rights defenders, lawyers, journalists and bloggers in the wake of the anti-government protests during the observance of Ashura on 27 December 2009.**

1188. According to information received:

1189. Mr. **Reza Al-Bacha**, a Syrian journalist employed by Dubai TV, was arrested on Sunday, 27 December 2009.

1190. Mr. **Mashaallah Shamsolvaezin**, spokesperson for the Association of Iranian Journalists and the Press Freedom Committee, and the editor of reformist Iranian newspapers, was arrested on 28 December 2009 in his home by plain clothes officers. Allegedly the men did not present an arrest warrant, only a document with the heading of the Revolutionary Court, which however did contain neither his name nor any reasons for his arrest.

1191. Mr. **Badrolssadat Mofidi**, the Secretary General of the Association of Iranian Journalists was arrested on 28 December 2009.

1192. Mr. **Emadeddin Baghi**, a prominent human rights defender and the founder of the Society for the Defence of Prisoner's Rights, winner of the Martin Annals Award in 2009 and a leading advocate against the death penalty, was arrested on 28 December 2009 in his home by plain clothes officers. Mr. Baghi reportedly suffers from heart and nerve conditions which were further aggravated by his previous detentions.

1193. Ms. **Noushin Ebadi**, the sister of Nobel Peace Prize winner Shirin Ebadi, a dentistry professor, was detained on 28 December 2009 and held at an unknown location since.

1194. Mr. **Mortaza Kazemian**, a journalist working for several newspapers and reformist websites, was arrested by men in plain clothes at his home in Tehran on 28 December 2009.

1195. Ms. **Mansoureh Shojaie**, who contributes to various women's rights websites, including www.feministschool.com, was arrested in the evening of 28 December 2009.

1196. Mr. **Kivan Mehrgan**, journalist working at the daily newspaper Etemaad; Mr. **Nassrin Vasiri**, journalist for the ILNA news agency and Mr. **Abdolreza Tajik**, a reporter, were also arrested on the same day.

1197. Since 28 December 2009, further arrests have also taken place, including Mr. **Hesmatollah Tabarzadi**, a student activist; Mr. **Alireza Beheshti**, director of the website Kalame and Mr. **Mostafa Izadi**, Mr. **Keyvan Mehregan**, who are journalists. Ms. **Zohreh Tonkaboni**, member of the organization 'Mothers for Peace' and the Secretary General and Deputy Secretary General of the Cultural Foundation, Mr. **Baran Morteza Haji** and Mr. **Hasan Rasouli**, were also among those arrested.

1198. Mr. **Mohammad Sadegh Javadihessar**, columnist for the now closed daily Etemad-e Melli, was arrested on 30 December 2009, after having been summoned by the Ministry of Intelligence. It is reported that books and his computer's hard drive have also been confiscated following a search of his home.

1199. Ms. **Maryam Zia**, children's right activist, President of the NGO 'Struggle for a World Deserving of Children' and member of the 'One Million Signatures Campaign' was arrested on 31 December 2009 in her home by plain clothes officers.

1200. On 1 January 2010, Mr **Nemat Ahmad**, a lawyer representing imprisoned journalists; Mr. **Mahsa Hekmet**, journalist working for the now closed Etemad-e Melli newspaper, as well as Mr. **Mohammed Reza Zohdi**, former editor of the now closed newspaper Arya have been arrested.

1201. Ms. **Parisa Kakei**, journalist and blogger for the weblog <http://parisad.blogspot.com> was arrested on 2 January 2010 after being summoned by the Ministry of Intelligence.

1202. Concern was expressed that the arrest and detention at unknown location and without charges of the above-mentioned journalists, lawyers, bloggers and human rights defenders might be related to their activities in defence of human rights and promoting democracy in Iran. In light of their alleged incommunicado detention, further serious concern was expressed regarding the physical and psychological integrity of those arrested.

Urgent appeal

1203. On 19 January 2010, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the independence of judges, sent an urgent appeal regarding Mr. **Payam Jahangiry**, a 28-year-old student of political science at Shiraz University.

1204. According to the information received, Mr. Payam Jahangiry, a supporter of the opposition movement in the Islamic Republic of Iran known as the "Green Movement", which emerged after the presidential election in June 2009, was arrested on 5 December 2009 at his home in Shiraz. The arresting officers of the security services at first identified themselves as workers from an electricity provider and forced their way in as Mr. Jahangiry opened the door. The officers then revealed their real identities, searched his home, and confiscated various personal belongings, including four computers and various documents and photographs. Mr. Jahangiry is currently being held at the Artesh Sevvom detention centre in Shiraz. He has not been allowed access to a lawyer, however, has been permitted two visits by his family.

1205. Several students and other individuals are reported to have also been arrested before, during and after demonstrations in connection with the National Student Day in Iran on 7 December, which marks the killing of three students by security forces in 1953.

1206. Concerns were expressed that the reported arrest and detention of Mr. Payam Jahangiri had been carried out solely in connection with his reportedly peaceful and legitimate exercise of his rights to freedom of opinion and expression, assembly, association, and to take part in the government of one's country, directly or through freely chosen representatives.

Urgent appeal

1207. On 27 January 2010, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Chairperson-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding the continuing arrests of journalists in Tehran, including Mr. **Behrang Tonekaboni**, Mr. **Kaycan Farzin**, Mr. **Azad Lotpoury**, as well as Mr. Tonekaboni's mother, Ms. **Lily Farhadpour**, member of the Iranian NGO "Mothers for Peace".

1208. According to the information received, on 5 January 2010, Mr. Behrang Tonekaboni, editor of "Farhang va Arhang", and his colleague Mr. Kayvan Farzin were arrested at their office in Tehran. Following the arrest, Mr. Tonekaboni was taken to his home, which was searched and some items, including his mother's computer, were confiscated. After his arrest, Mr. Tonekaboni telephoned his mother twice, but he was not allowed to indicate where he was. On 20 January, Ms. Lily Farhadpour was summoned to the Ministry of the Intelligence and sent home after waiting for several hours without being questioned. Later that day, she was arrested at her home. Both Mr. Tonekaboni and Ms. Farhadpour require daily medication.

1209. On 14 January, Mr. Azad Lotpoury, editor of the Kurdish and Fasi-language newspaper "Yaneh" was arrested by officers from the Ministry of Intelligence at his home in Sanandaj.

1210. Although the reasons for their arrests are not known, it is believed that they may be related to the ongoing protests against the Government in the Islamic Republic of Iran. In addition, several of the journalists arrested in Tehran are presumed to be held at section 240 of Evin prison, where they have been subjected to pressure in order to confess. However, the exact whereabouts of Mr. Tonekaboni, Mr. Farzin, Ms. Farhadpour and Mr. Lotpoury remain unknown.

1211. In light of their alleged incommunicado detention, concern was expressed regarding the physical and psychological integrity of Mr. Tonekaboni, Mr. Farzin, Ms. Farhadpour and Mr. Lotpoury.

Urgent appeal

1212. On 11 February 2010, the Special Rapporteur, together with the Chair-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture and other cruel,

inhuman or degrading treatment or punishment, sent an urgent regarding Dr. **Ahmad Zeydabadi**, Mr. **Massoud Bastanie**, and Mr. **Isa Saharhkiz**, journalists and active members of the Iranian Journalists Union.

1213. According to the information received, Dr. Ahmad Zeydabadi was arrested in June 2009, shortly after the Presidential election. Mr. Massoud Bastanie was arrested in August 2009. They were both transferred to the maximum security prison Rajayee Shahr (Gohardasht prison). Both Dr. Zeydabadi and Mr. Bastasnie have reportedly been pressured in order to confess to being part of foreign plots to destabilize or topple the Government.

1214. On 7 February, Mr. Saharhkiz was woken up at 1:00 a.m., taken to the courtyard at Rajayee Shahr prison in freezing temperatures, and forced to walk barefoot for two hours, as a disciplinary measure. Mr. Saharhkiz was reportedly beaten during his arrest in 2009. As a result his ribs were broken. He also suffers from hypertension and chronic thyroid disorder. However, he has been denied medical attention since the arrest.

Response from the Government

1215. By a letter dated 4 May 2010, Government responded to the communication above, but solely regarding the case of Mr. **Saharhkiz**. In its response, the Government indicated the following.

1216. Mr. Isa Saharhkiz as a person in charge of foreign News for one of the presidential candidates (Mr. Karoubi) played an effective role, following finalization of elections, in dissemination of gravely false news attributed to high-ranking officials of the country, agitation of public opinion and inciting public disorder.

1217. Mr. Saharhkiz was arrested on 3 July 2009 on the order issued by the Judicial authority and pursuant to investigations and, with consideration of the multiplicity of offences, he was sent to prison under the writ for temporary detention. The writ was later on extended by the relevant judge.

1218. Pursuant to investigations and collection of evidence by the judge (interrogator), the writ of offence was issued on 13 December 2009 and following its confirmation by the prosecutor, on 11 January 2010, the Bill of incitement was issued on 13 January 2010, and the dossier was referred to Branch 15 of the court. Subsequently, the relevant court set 18 July 2010 for trial of the case.

1219. Mr. Saharhkiz has enjoyed the legal assistance of his four lawyers (Ms. Nassim Ghanavi, Ms. Mina Jafari, Ms. Nassrin Sotoudeh and Mr. Mohammadreza Faghihi) and one of them (Mr. Faghihi) reviewed his dossier two times on 21 February 2010 and 3 April 2010. Furthermore, on 1 May 2010, the same lawyer requested to meet his client for the second time, which was agreed.

1220. Mr. Saharhkiz is presently in the general section of the Evin prison and he is in completely good health. He has had access to telephone and receives weekly visits from his family.

Urgent appeal

1221. On 22 February 2010, the Special Rapporteur, together with the Chair-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding the continuing arrests and detention of journalists, human rights defenders and activists, namely of Messrs. **Vahid Pourostad**, journalist, member of the editorial board of the Farhikhtegan newspaper; **Akbar Montajabi**, journalist; **Ehsan Mehrabi**, parliament reporter of the Farikhtegan newspaper; **Zainab Kazemkhah**, a reporter for the Iranian Student's News Agency (ISNA) for literature; **Ahmad Jalali Farahani**, the editor of social services of the Mehr News Agency; **Somayeh Momeni**, reporter for Nasim'e Bidari; **Ali Kalaei**, **Shiva Nazar-Ahari**, **Parisa Kakaee**, **Kouhjar Ghoudarzi**, **Mehrdad Rahimi**, **Saeed Kalanaki**, **Saeed Haeri** and **Saeed Jalalifar**, all members of the Committee of Human Rights Reporters; **Maryam Ghanbari**, born in 1983, graduate of the Allameh Tabatabaee University, attorney, a member of the Iranian Bar Association and of the Maydan women's group; **Mah-Farid Mansourian**, aged 55, environmental activist; **Kaveh Ghassemi Kermanshahi**, **Maziar Samiee**, **Mahsa Jazini**, and **Somayeh Momeni**, all members of the "One Million Signatures Campaign"; **Zeinab Kazem Zadeh**; **Niloofar Laripour**, a poet and lyricist, in charge of the music section of the Chelcheragh Weekly publication; **Nooshin Jafari**, journalist; **Nazanin Farzanjoo**, a student of French translation; **Sama Bahmani**; **Golnaz Tavassoli**, arts student at Tehran Azad University; **Nazanin Hassan Nia**, **Sahar Ghassemi Nejad**, both student activists; **Jamileh** and **Banafsheh Darolshafaei**, both "Arts Arena" activists.

1222. According to information received, Vahid Pourostad was arrested at his mother-in-law's home on the night of 8 February, two days before the 11th anniversary of the Islamic Revolution in Iran, on a warrant issued by Tehran Prosecutor's Office. His home was later searched and his laptop computer and hand-written notes were confiscated. The officers carrying out the arrest did not provide him or his family with the reasons for his arrest.

1223. Vahid Pourostad has published several books, including related to legal documents pertaining to the Iranian press. Among these books are "Tous [Newspaper] Trial", "Ava [Publication] Trial", and "Adineh [Publication] Trial", in which he discussed the production of these publications and related trial proceedings in court. Before becoming a member of the editorial board of the Farhikhtegan newspaper, he had served on the editorial boards of the Mosharekat, Yas-e No, and Vaghaye Ettefaghieh newspapers. He is also a founding member of the Etemad Melli newspaper's editorial board, a position from which he was dismissed in 2009. Vahid Pourostad wrote for many reformist newspapers such as Etemad Melli, Mosharekat, and Salam.

1224. Akbar Montajabi works for the Irandokht publication. Previously he worked for Yas-e-No, Shargh, and Etemaad Meli and for the weekly publication Shahrvand-e Emrooz as a reporter in the political section. He was arrested by security agents at 2:00 a.m. on 7 February. Ehsan Mehrabi, who works for the Hambastagi newspaper, and Zainab Kazemkhah, were arrested during the same night at their respective homes.

1225. Ahmad Jalali Farahani, was also arrested in the early hours of 7 February, one day after he had been dismissed from his position at the Mehr News Agency. Previously he worked for the Iran newspaper, which is considered to be a publication favourable to the current Government of the Islamic Republic of Iran. Somayeh Momeni, who was previously a reporter for ISNA, was arrested at her house at 3:00 a.m. on 7 February.

1226. The last group to have been arrested includes Maryam Ghanbari, apprehended at her home during the afternoon of 8 February. She participated in the Independence Campaign of the Iranian Bar Association, which was formed after a revised set of bylaws were proposed for the Iranian Bar Association. These draft bylaws would have made the Bar Association a subsidiary body of the Iranian judiciary. Upon request by prominent Iranian lawyers, then Judiciary Head Ayatollah Shahroudi agreed to postpone the proposal for six months. Mah-Farid Mansourian was previously imprisoned for six years during the 1980s.

1227. Kaveh Ghassemi Kermanshahi, Maziar Samiee, Mahsa Jazini, and Somayeh Momeni, who are involved in the “One Million Signatures Campaign” which calls for an end to discriminatory laws against women in Iran, were also arrested. Mahsa Jazini and Somayeh Momeni were arrested on 9 February. There is no information about the exact dates of arrest or the fate of Kaveh Ghassemi Kermanshahi, and Maziar Samiee. Mahsa Jazini, who is detained at the Dastgerd Prison in Isfahan, worked with the Isfahan Section of the Iran Newspaper. She is also a student at the Allameh Tabatabai University who was denied continuation of her education because of her social activities in the field of women’s rights.

1228. Ali Kalaei, who is currently conducting his military service, was arrested on 7 February by order of the military prosecutor. His home was searched and personal belongings seized. Ali Kalaei’s family was informed that they should follow his case in military court No. 2.

1229. With the arrest of Ali Kalaei the total number of detained members of the Committee of Human Rights Reporters amounts to eight, the others being Shiva Nazar-Ahari, Parisa Kakaee, Kouhjar Ghoudarzi, Mehrdad Rahimi, Saeed Kalanaki, Saeed Haeri and Saeed Jalalifar. Ali Kalaei had been arrested before in December 2007 and sentenced to two years of imprisonment by order of Branch No. 10 of the Tehran Revolutionary Court. He was arrested in December 2008 and in May 2009, following which he spent two months in Evin prison.

1230. Among another group arrested by security officers between 2 and 7 February are Zeinab Kazem Zadeh, Niloofar Laripour, Nooshin Jafari, Nazanin Farzanjoo, Golnaz Tavassoli, Nazanin Hassan Nia, Sahar Ghassemi Nejad, Jamileh and Banafsheh Darolshafaei. It is reported that Niloofar Laripour has not been politically active other than attending the campaign headquarters of candidate Mir Hossein Mousavi during the presidential elections of June 2009.

1231. Jamileh Darolshafaei, a music teacher, and screenwriter, was arrested after having been summoned to the offices of the Ministry of Information. She was asked to tell her family to come to the Ministry of Information upon which her sister, Banafsheh Darolshafaei, was also arrested. Their parents were also interrogated for several hours. Intelligence officers accompanied them to their home and searched the premises.

1232. It is reported that Sahar Ghassem Nejad and Nazanin Hassan Nia have not been involved in any political activities. Nazanin Hassan Nia's aunt spent time in prison in the 1980s. Nazanin Farzanjoo worked with a group of human rights activists. Sama Bahmani is from Bandar Abbas and was arrested with her husband in August 2009 after having published reports about alleged human rights violations in the Kurdish region of Iran. Sanandaj courts sentenced her to three years of suspended imprisonment for "propaganda against the regime," and "membership in human rights organizations." In her verdict she was ordered to avoid commuting in the Kurdish region and fraternizing with political individuals.

1233. Most arrests concerning this group of detainees were carried out during midnight hours and through a blanket arrest warrant. Most of the above individuals were not informed about the reasons for their arrests. Some of those arrested were told that the reason for their arrests was their participation in gatherings. Sources report that they have been transferred to Evin Prison in Tehran. In all cases, the arresting officers searched the premises and seized personal computers, hand-written notes, and some personal items of the arrested individuals.

Responses to communications transmitted earlier

1234. In a letter dated 15 July 2009, the Government responded to the communication sent on 19 December 2007, concerning Ms. **Maryam Hosseinkhah**, Ms. **Jelveh Javaheri**, Ms. **Hana Abdi**, Ms. **Ronak Safazadeh** and Ms. **Delaram Ali**, members of the *One Million Signatures Campaign*. The Government reported the following: "Ms. Delaram Ali was found guilty of disturbing public order and was sentenced to four months imprisonment and payment of 50,000 Tomans fine, by Branch 21 of Tehran Appellate Court. She was acquitted of the charge of working against the security of the state. The case was referred to the Head of Justice Department of Tehran and she is currently free on bail and the case has gone to the Court Rulings Implementation Section. The delay in sending the case to the Court Rulings Implementation Section was meant for the purpose of allowing time for a pardon. Ms. Maryam Hosseinkhah, in the judicial system of the Islamic Republic of Iran, review of the cases of the individuals charged with different offences are done on the basis of applicable laws regardless of the defendant's social titles and status. Accordingly, on the basis of the existing information, Ms. Maryam Hosseinkhah, married and residing in Tehran, was arrested on 19 December 2007 on the charge of propagating lies and misinformation and acting against the security of the state. Since she was not able to deposit the required bail at the time of her arrest, she was released on bail on 2 January 2008. She had access to a lawyer in accordance with article 128 of the Criminal Procedures Code. Ms. Shirin Ebadi was introduced as her defense lawyer and assumed the responsibility to represent her before the court. Her case is presently being investigated by the Investigation Branch. Ms. Jelveh Javaheri was summoned to the Investigation Office on charges of collaboration and assembly with the aim of disturbing public order., propagating misinformation against the Islamic Republic of Iran and ignoring the summon of the police. She was released on bail on the same day. An indictment was prepared and the case was sent to the Criminal Court. Ms. Mina Jafari is introduced as her defense lawyer and the trial date is set for 21 November 2009".

1235. In a letter dated 10 July 2009, the Government responded to the communication sent on 13 February 2008 concerning Mr. **Amin Ghaza'i**. The Government reported that "Mr. Amin Ghaza'i, a university student, was arrested on the basis of warrant of arrest issued by the judicial authorities on 15 December 2007 on charges of cooperating with a left-wing extremist terrorist

organization called 'Hekmatism' which pursues armed confrontation and instigation of violent protests in Tehran and Shiraz universities. Despite his extremist tendencies and in view of the policy of the Government on clemency and patience with students, and completion of required investigations, he was released on bail on 10 March 2008. According to the existing information, he left the country illegally to continue his cooperation with the above-mentioned terrorist group. Presently, he is believed to be in Turkey. Any allegation on his being a human rights activist and likewise are absolutely baseless and an abuse of the sublime values concept of human rights defence”.

1236. On 8 July 2009, the Government replied to an allegation letter sent on 30 June 2008 by the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression regarding the arrest and detention of **workers of the Haft-Tepeh Sugar** factory during a peaceful protest in the city of Shush, southern Iran.

1237. The Government indicated that following financial and economic problems of the sugarcane factory and non-payment of wages of personnel, numerous demonstrations were staged by the workers from late 2006 until late summer 2008. These protests ended peacefully. Subsequent to those protests, a group calling itself Workers Syndicate was formed without going through the legal formalities and holding elections. The group brought the demonstrations outside the premises of the factory and into the nearby city. No permit was requested by the organizers and the demonstrations were therefore considered as illegal. The demonstrations which were originally for the purpose of demanding outstanding wages were later exploited by some workers and a number of other individuals with mal-intentions, with a record of supporting extremist groups of the region, to ignite violation and unrest in the premises of the company and in the city.

1238. The Ministries of Labour and Social Affairs and the Ministry of Industries and Mines took measures in order to alleviate the financial difficulties of the workers of the factory. In response to the communication concerning the use of tear gas and injuries of some individuals and according to the existing laws and regulations in the country, full attention had been paid to root causes of the problem and the protests by the workers of the factory. Despite the disturbance of public peace and order as well as the blockage of traffic on a main transit road, police dispersed the crowd peacefully and patiently avoided using force in dealing with demonstrators. No one was harmed during those demonstrations, no complaint has been filed against the police and there was no report of any injuries.

1239. A case is filed before Branch 1 of Sush Prosecutor's office against the Ghorban Ali Alipoor, Freidoon Nikoofar, Jalil Ahmadi, Ali Nejati, Mohammad Heydari and Abdolfazl Abedini. The five first individuals were acquitted of the charges in light of Islamic compassion and clemency and due to the reasons behind the demonstrations and protests. Actions against the State and disturbing public order were among the charges laid against those individuals. The case against Abdolfazl Abedini relates to abetting in actions against the Islamic Republic and incitement into public violence. His case is currently being reviewed and indictment has been issued. The case is presently at the Criminal court of the city of Dezful and no verdict has been issued to this date.

1240. Concerning two other defendants, Ali Nejat Delhi and Abdolrahim Bes-hagh, they were acquitted of the charges laid against them, due to inadequacy of evidence. In view of the mentioned information, utmost tolerance has been shown toward those individuals and all defendants had the services of a legal counsel during all phases of legal proceedings.

1241. On 8 July 2009, the Government replied to the urgent appeal sent on 31 July 2008 by the Special Rapporteur on human rights defenders, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, regarding the situation of Mr. **Abdullah Momeni**.

1242. The Government indicated that according to the replies received from different authorities as well as the Police and the Judiciary of the Islamic Republic of Iran, there is no travel ban imposed on Mr. Momeni, the rotational president of Tahkim Vahdat. Therefore, any allegation stating otherwise is categorically false and denied.

Observations

1243. The Special Rapporteur thanks the Government of the Islamic Republic of Iran for the response provided to the urgent appeals of 22 December 2009, but remains concerned about the campaign of intimidation against Ms. Shirin Ebadi and her relatives. In addition, the Special Rapporteur thanks the Government of Iran of the response dated 4 May 2010 for the urgent appeal sent on 11 February 2010, but regrets that the situation of Dr. Ahmad Zeydabadi and Mr. Massoud Bastanie have yet to be clarified.

1244. Moreover, the Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted any replies to most of his communications sent in 2010, 2009, 2008, 2007, 2006, 2005 and 2004. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

Iraq

Urgent appeal

1245. On 7 August 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, sent an urgent appeal to the Government regarding **37 residents of Camp Ashraf**:

1. Jalil Gholamzadeh Golmarzi Hossein, born on 10 July 1964;
2. Azizollah Gholamizadeh; born on 18 November 1955;
3. Homaun Dayhim, born on 5 May 1956;
4. Mohammad Ali Tatai, born on 2 February 1954;

5. Mohammad Reza Ghasemzadeh, born on 12 December 1956;
6. Iraj Ahmadi Jihonabadi, born on 18 February 1954;
7. Jamshid Kargarfar, born on 2 February 1956;
8. Ebrahim Komarizadeh, born on 18 December 1959;
9. Javad Gougerdi, born on 5 March 1950;
10. Mehrban Balae, born on 10 April 1963;
11. Hamid Ashtari, born on 21 March 1962;
12. Mehdi Zare, born on 25 March 1967;
13. Mehdi Abdorrahimi, born on 10 June 1963;
14. Hossein Sarveazad, born on 22 July 1960;
15. Hossein Farsy, born on 20 June 1964;
16. Ali Tolammy Moghaddam, born on 28 December 1960;
17. Seyyed Hossein Ahmadi Djehon Abadi, born on 15 November 1956;
18. Karim Mohammadi, born on 1 April 1961;
19. Mir Rahim Ghorayshy Danaloo, born on 14 April 1964;
20. Asad Shahbazi, born on 9 September 1958;
21. Moshfegh Kongi, born on 21 March 1963;
22. Ahmad Tajgardan, born on 25 January 1963;
23. Jalil Forghany, born on 13 September 1964;
24. Ebrahim Malaipol, born on 21 March 1967;
25. Gholam-Reza Khorrami, born on 25 November 1955;
26. Mohsen Shojaee, born on 15 April 1963;
27. Omid Ghadermazi, born on 5 March 1968;
28. Manouchehr Majidi, born on 19 February 1977;
29. Hassan Besharati, born on 26 May 1962;
30. Ezat Latifi, born on 1 September 1981;

31. Mostafa Sanaie, born on 27 March 1955;
32. Habib Ghorab, born on 24 March 1952;
33. Rahman Haydari, born on 1 December 1962;
34. Mohammad Reza Hoshmand, born on 7 December 1957;
35. Abbas Mohammadi, born on 20 June 1960;
36. Gholamreza Mohammadzadeh, born on 27 December 1953; and
37. Abbas Hussein Fili, aged 39.

1246. All of them were being held at the police station of Khalis, Diyala province.

1247. According to the allegations received, on 28 July 2009, 37 residents of Ashraf camp were arrested by the police when they protested against the establishment of a police station in the camp. At least 32 of them were then transferred to the police station of Khalis, where they were allegedly beaten by the police with wooden truncheons and metal cables on their chests, heads and hands, which resulted in seven persons being seriously injured (broken arms, hands and fingers; fractures of back and head bones). They were later taken to the Iraqi army battalion compound just outside Ashraf, where they were put in a cell of 12 sq m.

1248. During a transfer, one of the men, Mr. Ebrahim Malaipol, attempted to enter the back of a pickup truck, but was allegedly hit on his head by an officer of the Scorpion Special Force. As a result, he sustained a head injury and is in urgent need of medical treatment. Overall, at least seven persons were found to be in need of hospitalization by medical doctors, but they remained without adequate medical treatment.

1249. Given the allegations of ill-treatment at the initial stage after arrest and the alleged denial of adequate medical treatment, concern was expressed for the physical and mental integrity of the 37 persons in detention.

Urgent appeal

1250. On 1 October 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, sent an urgent appeal to the Government regarding **37 Iranian nationals in Camp Ashraf**, who were the subject of an urgent appeal sent on 7 August 2009.

1251. The mandate-holders noted that they continued to be held at a police station in the town of Al-Khalis, in Diyala Province, north of Baghdad, in spite of a release order issued by the investigative judge of the criminal court of Diyala Province. The investigative judge confirmed, on 16 September 2009, his previous ruling of 24 August 2009 ordering the release of these persons on the grounds that they had no charges to answer.

1252. The public prosecutor, who had appealed the investigative judge's first ruling, is said to have had no objection to their release without charge. However, the local police authorities in the town of Al-Khalis continued to refuse to release the detainees for unknown reasons. Police authorities had not provided any reason or legal justification for the continued detention of these persons.

1253. Fears were expressed concerning the possibility of a possible forcible return of these Iranian nationals to Iran in circumstances where they would be at risk of serious human rights violations, including execution and torture. It was further said that most of these persons in a poor state of health and have been denied adequate medical treatment, and thus concern was expressed for their physical and mental integrity.

Response from the Government

1254. At the time this report was finalized, the reply of the Government of 14 October 2009 had not been translated.

Urgent appeal

1255. On 4 March 2010, the Special Rapporteur sent an urgent appeal regarding **threats, harassment and physical violence against journalists in Iraqi Kurdistan in the run-up to the parliamentary election on 6 March 2010.**

1256. According to information received, on 18 February, Mr. Hossam Daoud Lazim, reporter for the satellite television channel "Al-Ahad" and for the newspaper "Al-Nassar", was allegedly abducted by gunmen in civilian clothing from al-Nasr neighbourhood in Iraqi Kurdistan. On 26 February, he was reportedly released after a payment of USD 20,000 in ransom. Mr. Lazim has not disclosed who the perpetrators were.

1257. On the evening of 18 February, Mr. Ara Ibrahim, publisher of a biweekly newspaper "Halwati", and Mr. Saman Majid of "Livin" magazine and the television station "Gorran", were allegedly attacked by security forces in Sulaymaniyah while covering the election campaign. As they were taking photographs on Sahollaka Street of a man who had been injured by members of the security forces, they were stopped by individuals in civilian clothing who informed them that they had been authorised by the Patriotic Union of Kurdistan (PUK) to confiscate their cameras. One of them allegedly took the camera and began hitting and insulting Mr. Ibrahim, while Mr. Saman managed to flee.

1258. On the same day, Mr. Dawoud Baghstani, editor of the magazine "Israel-Kurd", was allegedly attacked by bodyguards of Mr. Nuri Othman, head of the Kurdistan cabinet's secretariat, in a restaurant in Erbil. Mr. Othman was reportedly at the restaurant with approximately 25 soldiers, but has contested that his bodyguards were merely defending him after Mr. Dawoud Baghstani had revealed his pistol and insulted him and Iraqi Kurdistan.

1259. Also on 18 February, Mr. Shaswar Mama of the website "Sbeiy", the official website of the Movement for Democratic Change (MDC), was reportedly attacked by PUK and Kurdistan Democratic Party (KDP) supporters in the city of Raniya as he and Mr. Karwan Anwar, reporter for the Kurdish News Network, were taking photographs in the city's market.

1260. On 20 February 2010 at around 7:50 p.m., Mr. Soran Ahmed, reporter for “Hawlati”, was allegedly attacked, beaten, and had his mobile phone and camera seized by security forces. He was then allegedly placed in the trunk of a car for more than half an hour. When he was freed and received his phone and camera back, the data on both of them had been deleted.

1261. Mr. Adnan Othman, a former editor of “Hawlati” and currently a parliamentary representative of MDC and editor of newspaper “Rojname”, which supports the MDC, has allegedly been receiving many death threats via e-mail and SMS. He was also allegedly insulted by KDP and PUK supporters after he had referred to the security forces that had attacked MDC supporters as illegal and referred to them as militias.

1262. Concern was expressed that the above-mentioned kidnapping, threats and attacks against journalists might prevent independent reporting in the crucial period in the run up to the parliamentary election.

Observations

1263. The Special Rapporteur wishes to thank the Government for the response transmitted to his communication of 1 October 2009, but regrets that at the time the present report was finalized, no response had been received to the communication sent on 7 August 2009 and 4 March 2010. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

Israel

Letter of allegations

1264. On 28 January 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations to the Government in relation to the **ban on international journalists from reporting in Gaza**.

1265. According to information received, since 6 November 2008, a media ban issued by the Israeli Government prevented foreign journalists from entering the Gaza Strip. International journalists, who were attempting to cross the border from Israel into Gaza on a daily basis, were turned away by military officials claiming that it was too dangerous and that the presence of journalists at the terminals would make them a target for militants. As a result, foreign journalists were unable to report first hand from Gaza during the conflict between Israel and the Occupied Palestine Territory (OPT) from 27 December 2008 to 18 January 2009.

1266. On 31 December 2008, Israel’s High Court issued a ruling to allow eight journalists to enter Gaza each time the Erez crossing was opened to allow humanitarian aid through to the Gaza strip. The ruling was reportedly not implemented until a cease-fire was declared on 18 January and despite the ruling access for journalists has reportedly improved only marginally. International media reported on the conflict from the Gaza-Israel border and relied on reports from Palestinian journalists and video from inside the territory. International reporters were permitted to report from Israel during the conflict.

1267. Concern was expressed that the aforementioned media ban which has prevented international journalists from entering Gaza may represent a direct attempt to prevent independent reporting during the recent conflict between Israel and the OPT.

Response from the Government

1268. In a letter dated 14 May 2009, the Government responded to the communication sent on 28 January 2009. The Government reported that until 6 November 2008, journalists were allowed to enter into the Gaza Strip with no restrictions or limitations, according to the passages' working hours.

1269. On 6 November 2008, the passages' working hours and their entire operations were significantly reduced for reasons of launching dozens of Qassam rockets and mortar shells by the Hamas terrorist organization toward Israel, and for intentions to commit acts of terrorism against the passages, acts which brought to an end the period of calm that existed in the area until then. These acts and intentions significantly increased the risks entailed in opening and operating the passages, including the Erez crossing which is used for passage of people in urgent humanitarian or medical cases. For that reason, in that period the entry of journalists to the Gaza Strip was not allowed.

1270. Following a petition to the Supreme Court, the State responded that because of the passages' reduced working hours at that time, the movement of people and goods through the passages was limited. However, when the security circumstances allowed it, the State allowed the passage of foreign journalists to Gaza Strip through the Erez crossing point, subject to advance coordination.

1271. The Government further reported on details regarding entrance of journalists into the Gaza strip during that period:

1272. On 4 December 2009, the passage of 17 journalists to the Gaza Strip was approved (among them journalists of Al-Jazeera, CNN, BBC, NTV, ZDS etc.).

1273. On 9 December 2008, the passage of 11 journalists to the Gaza Strip was approved (among them correspondents of Time Magazine, AFP, AP etc.).

1274. On 10 December 2008, the passage of 8 journalists to the Gaza Strip was approved (among them were journalists of France 24, AP, NDR network etc.).

1275. On 11 December 2008, the passage of 8 journalists to the Gaza Strip was approved (Among them were journalists of Der Spiegel, NHK etc.).

1276. On 15 December 2008, the passage of 3 journalists was approved (among them were journalists of Reuters and the Telegraph).

1277. On 16 December 2008, the passage of another 7 journalists was approved.

1278. As of 18 December 2008, on which the Hamas terrorist organization announced that the period of calm with Israel was over, another escalation of the security situation occurred, which came into effect in intensifying of the Hamas shooting towards Israel's territory. Accordingly, on 24 December 2008, the Government of Israel decided to proceed with an operation against the Hamas terrorist organization, which started on 27 December 2008 – Operation “Cast Lead”.

1279. In light of the Court's proposal for the consolidation of a procedure that will allow the entrance of journalists even while combat operations are taking place, the State presented such procedure on 1 January 2009. According to the procedure, in days when the Erez crossing point is opened for urgent humanitarian cases and urgent medical cases, the entry into the Gaza Strip of up to 8 journalists will be permitted according to security circumstances. The State further argued that the implementation of the procedure was subject to security circumstances or to a substantial change of circumstances. The Court's verdict reaffirmed the procedure and the petition was rejected.

1280. On 4 January 2009, the land warfare phase of operation “Cast Lead” began, and accordingly, the State determined that due to the substantial change of the circumstances, it can not allow the implementation of the abovementioned procedure. Accordingly, during operation “Cast Lead”, the entrance of journalists to the Gaza Strip was not made possible according to the procedure.

1281. In addition, immediately after the conclusion of operation “Cast Lead”, the Erez crossing resumed its regular operation, and as of 23 January 2009, the passage of journalists to the Gaza Strip was allowed.

1282. On 25 January 2009, the verdict of another appeal submitted on 20 January 2009, by the foreign correspondents association in Israel, was given. In its verdict, the Court detailed the aforesaid course of events and also dealt with the issue of lack of implementation of the abovementioned procedure. The Court ruled that there was no violation of the aforementioned procedure by the State.

Letter of allegations

1283. On 4 March 2010, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations on information received, when considered together, appears to suggest the existence of a worrying and increasing trend of restricting and delegitimizing the activities of human rights organizations working in Israel and the occupied Palestinian territories. Such information includes reports regarding restrictions on the freedom of movement and activities of members of human rights organizations, who are seeking to carry out activities in the occupied Palestinian territories or participate in conferences, workshops and other events abroad that are related to their work. Further, it is alleged that human rights defenders have been arrested, detained and deported, and that several human rights organizations have had their premises raided by Israeli security forces.

1284. On 22 September 2009, **Mr. Mohammed Othman**, a volunteer with the “Stop the Wall Campaign”, was allegedly administratively detained without charges and held for four months. He was released from detention on 12 January 2010. On 16 December 2009, the coordinator of the campaign, **Mr. Jamal Juma**, was allegedly arrested and detained without charges

until 13 January 2010. Mr. Othman and Mr. Juma were the subjects of two urgent appeals sent on 13 November and 23 December 2009 respectively. Your Excellency's Government sent a reply to the second appeal on 24 January 2010.

1285. On 10 December 2009, **Mr. Abdallah Abu Rahma**, head of the Popular Committee against the Wall, was allegedly arrested. It is further alleged that Mr. Rahma remains in detention. On 3 February 2010, **Mr. Ibrahim Abed El Fatah Bornat** was arrested in his house by soldiers. While trying to photograph this arrest, **Mr. Hamde Abu Rahmeh**, a Palestinian journalist was allegedly attacked and arrested by the soldiers.

1286. On 20 January 2010 **Ms. Eva Novakova**, media coordinator of the International Solidarity Movement, was allegedly deported. The same day, **Mr. Jared Malsin**, the chief editor of the Palestinian Ma'an News Agency, was also allegedly deported after having been detained for eight days.

1287. On 3 February 2010, the Israeli Minister of Interior allegedly issued a six-month travel ban against **Mr. Khalil Tafakji**, a Palestinian cartographer residing in East Jerusalem. It is alleged that the travel ban was issued in response to the activities of Mr. Tafakji for the promotion of Palestinian human rights, notably his involvement with several Palestinian delegations to peace talks between 1992 and 2001 in his capacity as an expert on maps and issues related to borders, as well as his lectures abroad on the situation in the OPT. Similarly, it is alleged that since 2006 **Mr. Shawan Jabarin** has been subjected to a travel ban based on "secret evidence", which may be attributable to his appointment as director of Al Haq, a West Bank affiliate of the International Commission of Jurists. The travel ban against Mr. Jabarin is reportedly still in place despite three appeals to the Israeli High Court of Justice.

1288. On 7 February 2010, the premises of the **International Solidarity Movement** in Ramallah were allegedly raided by the Israeli security forces. It is further alleged that, during the raid, **Ms. Ariadna Jove Marti**, a Spanish journalist, and **Ms. Bridgette Chappell**, an Australian student, were arrested, and the equipment and documents of the organization were seized. Ms. Marti and Ms. Chappell were detained in Ofer prison, following which they were released in Israel and prohibited from entering the West Bank. It is reported that they currently await a decision on the legal challenge to their deportation orders. On the same day, another raid by Israeli security forces was allegedly conducted on the premises of "**Stop the Wall campaign**" in Ramallah.

1289. Within this context, on 31 January 2010 13 Israeli human rights organizations (**ASSAF - Aid Organization for Refugees and Asylum-Seekers in Israel, the Association for Civil Rights in Israel, Bioko - Planners for Planning Rights, B'Tselem, Gisha, the Public Committee against Torture in Israel, Yesh Din, Hamoked - The Center for the Defence of the Individual, the Hotline for Migrant Workers, Israel Religious Action Center, Kav LaOved - Worker's Hotline, Physicians for Human Rights - Israel and Rabbis for Human Rights**) sent a letter to the President, the Speaker of the Knesset and the Prime Minister. This letter was sent to protest the alleged efforts of public officials to stigmatize, and therefore delegitimize, human rights organizations; to protest the alleged restrictions, allegedly imposed by the Government of Israel, on the activities of human rights organizations; to protest alleged acts of intimidation and harassment against human rights defenders by the *Israeli* security forces; and, in particular, in response to an allegedly defamatory advertisement published in the

newspaper Maariv on 20 January 2010, which denigrated the New Israel Fund and its grantees for having cooperated with the United Nations Fact Finding Mission on the Gaza Conflict.

1290. With respect to the latter concern, it is noted that, following the publication of said advertisement, public statements were made by a number of officials of your Excellency's Government that appeared to support the sentiment expressed in the advertisement. In this connection, and also following the publication of this advertisement, it is reported that the Deputy Speaker of the Knesset, has called for a vote in the Knesset to approve the opening of a parliamentary investigation into the cooperation of Israeli organizations with the United Nations Fact Finding Mission on the Gaza Conflict.

1291. Concern was expressed that the alleged restrictions on the freedom of movement, arrests, detentions and deportation of human rights defenders, and raids of certain organizations' premises may be directly related to their legitimate work in defense of human rights. It is stressed that such actions, were they to have occurred, would negatively affect the ability of human rights defenders to carry out their work. Further concern was expressed that certain measures taken by the Government, which impinge on the activities of selected human rights organizations, may be linked to their having cooperated with the United Nations Fact Finding Mission on the Gaza Conflict. Given the extent of the allegations, there is an over-arching, serious concern that this may form part of a broader pattern of efforts to delegitimize the activities of human rights defenders who are critical of actions and policies of the Government, in particular those related to Israeli security forces.

Responses received to communications sent earlier

1292. By letter dated 7 May 2009, the Government responded to a letter sent on 28 July 2008, that according to information from the relevant authorities, the High Court of Justice heard a petition brought by Mr. **Shawan Jabarin** against the commander of the Israeli Defense Force (IDF) in the West Bank, regarding a travel ban imposed on Mr. Jabarin. During the proceedings, and with the consent of Mr. Jabarin's Lawyer, the Court examined ex-parte secret evidence brought by IDF's attorneys. For that purpose, the Court held two sessions, in which comprehensive and thorough examination of the evidence was carried out, and possibilities to deal with the security restrictions regarding the evidence in a more proportionate way were also examined.

1293. The Court stated that an ex-parte hearing makes it harder on the petitioner's attorney to deal with the allegations against his client brought by the respondent, and it also makes it more difficult on the Court who wishes to conduct an open and effective discussion with the representatives of both sides, and therefore it makes the Court the "representative" of the petitioner during the ex-parte hearing.

1294. The Court cited the High Court of Justice decision of 22 June 2007, in which the Court stated that alongside his work as general manager of a human rights organization, Mr. Jabarin is active in a terrorist organization, which denies the most basic rights of all – the right to life (H.C.J. 5182/07 Shawan Rateb Abdulla Jabarin v. the Commander of Israel Defense Forces in the West Bank (22.6.2007)). The Court also mentioned that in a decision dated 7 July 2008, the High Court of Justice was persuaded that Shawan Jabarin is a senior activist in the "Popular

Front for Liberation of Palestine” terrorist organization (H.C.J. 5022/08 Shawan Rateb Abdulla Jabarin v. the Commander of Israel Defense Forces in the West Bank (7.7.2008)).

1295. In regard to the present Petition, the Court stated that the evidentiary materials regarding the involvement of Mr. Jabarin in the activity of terrorist organizations are substantial and reliable. The Court further stated that since the petitioner’s last appeal, additional negative evidence were collected. According to the Court, that negative legal infrastructure confirms the position of the security forces that the travel ban imposed on Mr. Jabarin was not imposed as a measure of punishment, but was carried out for relevant security considerations.

1296. For the reasons mentioned above, the Court found no reason to intervene in the respondent decision not to allow the Petitioner to travel abroad ((H.C.J. 1520/09 Shawan Rateb Abdulla Jabarin v. the Commander of Israel Defense Forces in the West Bank (10.3.2009)).

Observations

1297. The Special Rapporteur wishes to thank the Government for the responses transmitted to his communications of 28 January 2009 and 28 July 2008, and regrets that at the time the present report was finalized, no response had been received to the communications sent on 5 November 2008, 14 August 2008, 21 September 2007, 23 August 2007, and 16 March 2007. He considers response to his communications as an important part of the cooperation of Governments with his mandate, and urges the Government to respond to the concerns raised by him.

Italy

Urgent appeal

1298. On 9 January 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding Mr **Roberto Saviano**, a writer, journalist and correspondent of the newspaper *La Repubblica*. Mr Saviano is the author of *Gomorra*, a novel denouncing murders by the Camorra (the Napolitan mafia), corruption by the criminal organization and the alleged collusion of local authorities with it.

1299. According to the information received, Mr Saviano has been under police protection since the publication of his book, but continues to receive death threats. On 1 October 2008, Mr Saviano was informed by the Milan police headquarters that the Camorra had decided to kill him and his police escorts before Christmas 2008. According to the uncovered plot Mr Saviano and his plain clothes police guards were to be blown up while travelling by car on the Naples-Rome highway. On 13 October 2008, Mr Saviano received new death threats from unknown individuals allegedly belonging to the Camorra.

1300. A police investigation was opened into the death threats issued against Mr Saviano, but no information is available on its status.

1301. Concern was expressed for the physical and psychological integrity of Mr Saviano. Further concern was expressed with regards to reports that the police escort is not paid for their overtime work and that public resources allocated to the police in region of Campania and Calabria are scarce compared to other regions of Italy.

Response from the Government

1302. In a letter dated 3 March 2009, the Government responded to the communication sent on 9 January 2009. The Government noted that the Italian Constitution of 1948 envisages the protection of rights and fundamental freedoms as included in relevant international standards, such as the European Convention on Human Rights and Fundamental Freedoms, the Universal Declaration on Human Rights as well as the International Covenant on Civil and Political Rights. The protection and promotion of human rights – be it civil and political, economic, social and cultural, be it referred to freedom of expression or to the fight against racism or to the human rights of children and of women – constitutes one of the fundamental pillars of both domestic and foreign Italian policies.

1303. The Italian legal system aims at ensuring an effective framework of guarantees, to fully and extensively protect the fundamental rights of the individual. In practical terms, before affecting such rights, the Italian legal system provides individuals with a wide range of protection means.

1304. Mr. Saviano has been victim of several intimidation actions, allegedly committed by the Camorra organisations, due to his public denunciation and condemnation of the above criminal organisations, active in Campania Region, particularly in Naples, Caserta and nearby.

1305. In this context, the Italian Authorities have promptly adopted adequate measures. Mr. Saviano enjoys the highest possible level of protection, by means of ad hoc protection measures which are provided by the Carabinieri Corps. The Carabinieri officers-in charge of escorting Mr. Saviano receive due compensation for the duty performed.

1306. On a more specific note, after publishing the novel “Gomorra”, Mr. Saviano was threatened for drawing the public attention to the illegal activities carried out within the area of the Campania Region. Such threats, presumably from Camorra members, are currently under examination by judicial Authorities.

1307. On October 14, 2008, national and local news agencies reported allegations concerning a plan – subsequently not confirmed – according to which one of the Camorra organizations, called “Casalesi”, was attempting to kill Mr. Saviano. Taking into due account the confidential nature of the investigations and of the various criminal proceedings initiated, and still pending, the Government is able to confirm that Mr. Saviano is the plaintiff and has cooperated with the Judicial Authorities in some proceedings. The author of the crime has not been identified yet (proceedings registered under R.G. Mod.44); for other allegations the elements were not sufficient to initiate a criminal proceeding (R.G. Mod. 45).

1308. At present, while recalling that the investigations are still ongoing, the Italian Authorities can mention two specific criminal proceedings. The first one – as above reported - is the result of the allegation brought about, in October 2008, by a judicial police officer, concerning the Casalesi’s plot to assassinate Mr. Saviano and his escort, being presumably committed by a road-side bombing, within Christmas 2008. Following investigations, it has been ascertained by the Judicial Authorities that such allegation was groundless.

1309. The second proceeding is the results of threats against Mr. Saviano, Ms. Capacchione, a journalist, and some magistrates operating in the District of the Appeal Court in Naples. In accordance with Article 45 of the Criminal Proceeding Code, concerning the *legitima suspicione* institute, the General Attorney's Office in Naples has communicated that a relevant section of such investigations has been transmitted, for competence pursuant to Art. 11 of the Criminal Proceeding Code, to the Attorney's Office in Rome.

1310. As soon as additional information is made available by the Judicial Authorities, the Government will promptly provide you with further elements on the case of Mr. Saviano.

Letter of allegations

1311. On 1 March 2010, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations concerning the sentencing of **Mr. Roberto Malini and Mr. Dario Picciau**. Mr. Malini and Mr. Picciau are the co-presidents of the non-governmental organization "EveryOne Group" and work to promote the rights of persons belonging to minorities, including the Roma.

1312. According to information received, on 12 February 2010, Mr. Malini and Mr. Picciau were notified by Italian authorities that they were sentenced to a fine, on the basis that "in complicity with each other, they caused the interruption, or at least disturbed a police operation aimed at identifying three foreign citizens, and used abusive language towards the officers from the Pesaro-Urbino police headquarters, and interfered in the carrying out of their duty". The fine of 2,100 Euros was handed down on the basis of Articles 110 and 340 of the Italian Penal Code. The procedure applied was based on Article 459 of the Code of Criminal Procedure, which may be used for crimes punishable with imprisonment as long as the prison term is commuted into a fine. Such penal decrees may be appealed within 15 days from the notification.

1313. The sentencing of the two activists relates to events which took place on the evening of 20 December 2008. A police officer from the Pesaro-Urbino police station was talking in a reportedly arrogant manner to a Roma migrant, Mr. Nico Grancea, outside a coffee shop. When Mr. Malini and Mr. Picciau approached the scene and greeted Mr. Grancea, whom EveryOne Group have been providing assistance to during the past year, the police officers requested that Mr. Malini and Mr. Picciau identify themselves. They have reportedly complied with the police order, after which the officers left without issuing a notification.

1314. During the judicial process the magistrate in charge of the case did not take into consideration the testimonies of the owner of the coffee shop, Mr. Nico Grancea or the two human rights defenders, and the procedure amounted to a conviction without trial. Mr. Malini and Mr. Picciau have appealed the sentence.

1315. Concern was expressed that the sentencing of Mr. Roberto Malini and Mr. Dario Picciau might be related to their legitimate activities promoting and protecting the rights of minorities and migrants and advocacy against the expulsion of asylum seekers. Further concern was expressed regarding the alleged comments of the Pesaro Police Commissioner, who described the Roma as "dangerous criminals" and alluded that those advocating for their rights, including EveryOne Group, are part of a criminal organization.

Observations

1316. The Special Rapporteur wishes to thank the Government for the detailed and satisfactory response the Government provided in the case of Mr. Roberto Saviano, and would appreciate any updates as appropriate about developments in the case.

1317. The Special Rapporteur regrets that at the time the present report was finalized, no response had been received to the communication sent on 1 March 2010. He urges the Government to respond to the concerns raised by him.

Kazakhstan

Letter of allegations

1318. On 17 July 2009, the Special Rapporteur sent a letter of allegation to the Government concerning threats received by Ms. **Zhanary Davletova**, a journalist and crime columnist with the “Uralskaya Nedelya” newspaper.

1319. According to the information received, on 2 July 2009, Azattyk radio station publicized information alleging that Ms. Davelatova had received a threatening phone call in which an unidentified individual claimed that force would be used against her. Ms. Davaletova had previously received threatening calls, the first being several days after the publication of an article entitled “It’s Good That Manshuk Cannot See” in the Uralskaya Nedelya newspaper. The article uncovered the story of a hotel in Uralsk, a city in western Kazakhstan, which had been converted into a brothel by its owner. The female caller apparently uttered several swearwords before threatening to kill Ms Davalatova.

1320. Furthermore, an individual who introduced himself as the hotel’s chief security officer later contacted Ms Davalatova suggesting that she would come to harm if she did not retract the article she had published.

1321. As the threatening phone calls persisted over a number of days, Ms Davletova decided to approach the Kazakh National Security Committee and the prosecutor’s office with a complaint. Ms Davalatova was allegedly not permitted to open a criminal case by the authorities and no action was taken in order to identify the authors of the threatening phone calls. In the past, Ms. Zhanary Davletova had written several reports in which police officers have been accused of allegedly covering up the illegal activities of certain businessmen.

1322. Serious concern was expressed that the aforementioned events may represent a direct attempt to prevent freedom of expression and to stifle independent reporting in Kazakhstan.

Responses from the Government

1323. At the time this report was finalized, the replies of the Government of 7 September and 5 November 2009 had not been translated.

Urgent appeal

1324. On 16 September 2009, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding the trial of Mr. **Yevgeniy Zhovtis**, director of the Kazakhstan International Bureau for Human Rights (KIBHR).

1325. According to the information received, on 3 September 2009, Mr. Yevgeniy Zhovtis was sentenced to four years of imprisonment for vehicular manslaughter.

1326. In the evening of 26 July 2009, around 10 pm, Mr. Zhovtis was driving his car on a highway outside of Almaty when his car struck and killed a pedestrian. The victim was reportedly walking down the middle of the dark highway in the same direction as the traffic. After the accident, Mr. Zhovtis immediately stopped the car and called the police and ambulance. He voluntarily underwent a medical test in order to verify presence of any alcohol in his blood. According to this initial medical exam and technical expert analysis, Mr. Zhovtis was neither speeding nor intoxicated. Furthermore, the initial police examination of the scene of the accident reportedly also found that Mr. Zhovtis had no chance to avoid the accident.

1327. On 27 July, investigative procedures were launched under Article 296 part 2 of the Criminal Code (violation of the traffic code resulting in manslaughter).

1328. On 28 July, the investigative officer allegedly issued a decision as to the fact that Mr. Zhovtis was established as a suspect in the investigation. However, Mr. Zhovtis had not been duly informed of his status as a suspect/accused until 14 August 2009, when the written undertaking not to leave was applied as a restraint measure. From 28 July until 14 August, Mr. Zhovtis participated in a number of investigative procedures on the assumption to be a witness in the case. Due to the failure of investigative authorities to inform him of his procedural status of a suspect, he did not avail himself of any procedural safeguards guaranteed by the Criminal Procedure Code. Furthermore, the technical expertise was allegedly carried out on the basis of factual information submitted exclusively by the investigative authorities, part of which appeared inaccurate. The findings of this technical expertise, which stated that the accident could have been avoided, constituted the sole basis for the prosecutorial indictment.

1329. Mr. Zhovtis met with the family of the victim to express his grief over the tragic accident. Mr. Zhovtis reportedly agreed to provide the family a material support of \$15,000 to assist them following their loss. However, this agreement was not meant to imply an admission of legal liability from Mr. Zhovtis' side. On 6 August, the mother and the sister of the victim signed a statement confirming that Mr. Zhovtis provided material support to the family and that the family requested the investigating bodies to drop the criminal charges against Zhovtis. However, despite the fact that this document was handed to the investigator, it was not included in the materials of the criminal case, which the defense realized only in the court.

1330. The motion of the defense of 18 August 2009 to repeat the technical examination was denied by the investigating officer. This rejection was only communicated to the defence on 24 August 2009.

1331. On 20 August, the case was sent to the prosecutor's office and then to the Balkhash district court, without the defence being notified of this, which appears to be in violation of Article 276 of the Criminal Procedure Code. On 25 August, the defence sent a complaint regarding this alleged procedural violation to the prosecutor's office of the Almaty region, however no reply was received. On 27 August, the defence brought forward a motion to the Balkhash district court to schedule preliminary hearings in order to review this procedural violation. This motion was dismissed without any reasoning.

1332. On 27 August, Mr. Zhovtis's motion for a postponement of the trial to 2 September 2009 was granted by the court.

1333. On 2 September 2009, the trial started and was conducted from 11 am to 7 pm. During that day, three motions were filed by the defence, all of which were rejected, reportedly without any reasoned decision. The motions related to 1) the auto-technical examination, which the defence holds was inadmissible due to a number of procedural violations, inaccurate data used and non-impartial findings made; 2) the inadmissibility of all evidence collected by investigative activities conducted during between 28 July and 14 August 2009 according to Article 116 Criminal Procedural Code as Mr. Zhovtis was not notified of his status as suspect, 3) the request to summon to court independent forensic experts who had submitted their conclusions to the defense at the pre-trial stage.

1334. On 3 September, the defense filed two more motions, both of which were rejected by the court, allegedly without any substantiated reasoning. The first one was related to a repetition of the auto-technical examination by a commission composed of independent national and foreign experts; the second requested for an additional day for the defence to prepare the final arguments. The court granted both sides only 40 minutes to prepare their final arguments. This did not give Mr. Zhovtis' defense team sufficient time to analyze the arguments and prepare an adequate closing statement in defense of their client.

1335. On the second day of the trial, on 3 September, Mr Zhovtis was convicted to four years of imprisonment for vehicular manslaughter and three years of deprivation of his right to drive a vehicle. After the pronouncement of the verdict, Mr. Zhovtis was taken into custody and then transferred to a detention facility in Taldy-Korgan which is several hundreds of kilometres from Almaty where the incident happened and Mr. Zhovtis lives.

1336. Mr. Zhovtis intends to appeal the court decision in Taldy-Korgan regional court. An appeal would have to be submitted within 15 days. However, the written copy of the verdict was only obtained by Mr. Zhovtis and his defence team five days after its pronouncement in court. It appears that the substance of the verdict received by Mr. Zhovtis differed from the one read out in the court.

1337. Information received indicates that, in cases where the parties have reached reconciliation, vehicular manslaughter is either punished with a conditional sentence or no criminal proceedings are instituted in the first place. It is for this reason that the verdict given to Mr. Zhovtis appears not proportional and excessively harsh.

1338. In view of the above, concern was expressed that Mr. Zhovtis might have not been afforded a fair trial. Concern was further expressed that this might be related to his activities carried out in the defence of human rights.

Response from the Government

1339. At the time this report was finalized, the reply of the Government of 18 November 2009 had not been translated.

Observations

1340. The Special Rapporteur wishes to thank the Government for the response transmitted to his communication of 17 July and 16 September 2009, but regrets that at the time the present report was finalized, no response had been received to the communication sent on 2 February 2007. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

Kenya

Urgent appeal

1341. On 18 February 2009, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary killings, sent an urgent appeal to the Government concerning the killing of Mr. **Francis Nyaruri**, a reporter for the Weekly Citizen paper.

1342. According to information received, Mr. Francis Nyaruri was a reporter for the private Weekly Citizen, writing under the pen name Mong'are Mokuu. He had recently written a series of articles exposing alleged financial malpractice by the police department in Nyanza province and had received threats by police officers as a consequence.

1343. Mr. Francis Nyaruri travelled to Kisii, Nyanza province, on the morning of 15 January 2009. He last spoke to his wife on the phone at 11 a.m. on that day and was not heard of again. On 29 January 2009, his body was found in Koderia Forest, Nyanza Province, decapitated with hands tied behind his back and marks on his body.

1344. The mandate-holders urged the Government to take effective measures to rapidly identify, arrest and bring to justice the persons responsible for the killing, both as material perpetrators and as instigators.

Urgent appeal

1345. On 13 March 2009, the Special Rapporteur, together with the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal concerning the killing of Mr. **Oscar Kamau King'ara**, the founder and Chief Executive Officer of the Oscar Foundation Free Legal Aid Clinic, and Mr. **John Paul Oulu**, its Communications and Advocacy Director. The Oscar

Foundation is a human rights organisation providing free legal aid services to the poor. It has carried out research on police brutality in urban areas of Kenya, on corruption in the police force and in prisons, as well as on the alleged enforced disappearance and killing by the police of hundreds of youths alleged to belong to the Mungiki sect. In 2007, the Oscar Foundation had published a report titled “*License to kill - Extrajudicial execution and police brutality in Kenya*”. On 18 February 2009, the Oscar Foundation presented its findings on ongoing disappearances and extrajudicial killings in Kenya to a Member of Parliament for use in a parliamentary debate. The Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Philip Alston, met Mr. Kamau Kingara during his visit to Kenya from 16 to 25 February 2009.

1346. On 5 March 2009, at approximately 6.00 pm, Oscar Kamau Kingara and John Paul Oulu were driving in heavy traffic on Mamlaka Road near the University of Nairobi. They were on their way to a meeting with a senior staffer of the Kenya National Commission on Human Rights. Their vehicle was blocked by a minibus and a Mitsubishi Pajero vehicle, both of which had been following them. Two men got out of the vehicles, approached the vehicle of Oscar Kamau Kingara and John Paul Oulu and shot them both through the windows from close range. The closest eyewitness to the incident was shot in the leg and later taken away by policemen.

1347. On the same evening, following the killings, several hundred University of Nairobi students held a demonstration protesting the killings. Students took the bullet-riddled car and the body of Kingara onto campus, refusing to surrender the body to police. A standoff ensued between a large contingent of police who demanded that the body be handed over and the angry, but largely peaceful, demonstrators. After negotiations broke down, police officers stormed the campus using tear gas and firing live ammunition, some into the air, others apparently at students, while students threw stones at the police. One student was killed by the police, and a number were injured.

1348. On the day preceding the killing, Mr Alfred Mutua, the Government Spokesman, had publicly denounced the Oscar Foundation as a funder of the illegal Mungiki sect, while a attributed to the Police Spokesman, Mr Eric Kiraithe, stated that a major security operation was “definitely going to get” those responsible for recent demonstrations attributable to the Mungiki. In a briefing to the Special Rapporteur on 16 February 2009, the Chief of Police had stated that Mungiki was funding the Oscar Foundation.

1349. Since this incident, numerous human rights defenders in Kenya have received threats, and a number have been forced to go into hiding.

1350. In addition, threats were sent to human rights defenders in Kenya’s Western Province who had been in contact with the Special Rapporteur on extrajudicial, summary or arbitrary executions in the course of his recent visit to Kenya, namely Mr. **Job Bwonya Wahdalia**, Mr. **Eric Wambasi**, and Mr. **Eliu Siyoi Tendet** of the Western Kenya Human Rights Watch and Mr. **Taiga Wanyanja** of the Muratikho Torture Survivor’s Organisation. Both organizations have been monitoring and reporting on human rights abuses in the Mt Elgon region, and providing assistance to victims and families.

1351. On 18 and 19 February 2009, in the course of his visit to Kenya upon invitation from the Government of Kenya, the Special Rapporteur on extrajudicial, arbitrary or summary executions visited Bungoma and Kapsokwonyi in Western Province to investigate reports of killings and

enforced disappearances by the armed group Sabaot Land Defence Force (SLDF), as well as by the Kenya Police and armed forces in their operation against the SLDF. In the days preceding the Special Rapporteur's arrival in the region, representatives of the authorities told individuals not to speak with the Special Rapporteur about police and military abuses, and only to mention abuses by the SLDF. On 17 February, officials told residents at one IDP camp that the food aid upon which they depended would be jeopardized if they were critical of the military in their testimony to the Special Rapporteur.

1352. On 18 February 2009, staff of the Western Kenya Human Rights Watch noticed the presence of intelligence officers outside their offices in Bungoma, where the Special Rapporteur was interviewing victims and witnesses of violence in Mount Elgon. On the following day, intelligence officers were outside the hotel where further interviews were being conducted.

1353. On 19 February 2009, officials visited the home of Eliu Siyoi Tendet, who had organised interviews with witnesses for the Special Rapporteur, and asked him for the list of people who had testified before the Special Rapporteur. The military subsequently came to his home, but Eliu Siyoi Tendet managed to escape. Job Wahdalia also received calls from officials asking for the names of those who testified. Job Wahdalia, Eliu Siyoi Tendet, Eric Wambasi, and Taiga Wanyanja have now all been forced to flee the area to ensure their safety. Subsequently, the families and colleagues of each of them have been harassed as to their whereabouts.

1354. On 19 February 2009, and in the following days, the Special Rapporteur on extrajudicial, arbitrary or summary executions brought these threats repeatedly to the attention of the Ministry of Foreign Affairs and the Ministry of Provincial Administration and Internal Security. He asked for explanations and assurances from the Government. On 25 February 2009, the Special Rapporteur received a letter from the Permanent Secretary in the Ministry of Provincial Administration and Internal Security. It states that "nobody has threatened them" [Job Bwonya [Wahdalia], Eric Wambasi, Eliu Siyoi Tendet and Taiga Wanyanja] and alleges that "there are reports from the mainstream NGOs that some witnesses illegally collected money from the Mt. Elgon SLDF victims so as to forward their cases for compensation and thereafter disappeared". The Permanent Secretary concludes that he "[has] ordered that these allegations be thoroughly investigated and in any case the mainstream NGOs be encouraged to talk to you and give more light to the matter".

1355. On 1, 2 and 4 March 2009, Kenya Police officers entered the offices of Western Kenya Human Rights Watch. They demanded from the remaining staff a list of the victims and witnesses who had spoken to the Special Rapporteur on extrajudicial, summary or arbitrary executions claiming that relatives had been killed or had disappeared at the time of the military operation in Mount Elgon.

Urgent appeal

1356. On 19 October 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding Mr. **Ken Wafula**, chief executive director of the Centre for Human Rights and Democracy (CHRD) in Eldoret. CHRD works actively to address human rights issues in Kenya. Mr. Wafula recently received widespread public attention when he reported on the movement of arms in the Rift Valley in Kenya and the re-arming of communities there.

1357. According to information received, on 9 October 2009, Mr. Wafula was arrested by local police in Eldoret. He was subsequently interrogated before being released later that day and advised not to leave the city. Since then he has been summoned to the District Criminal Investigation Office (DCIO) on several occasions where he has been requested to give further statements.

1358. It has also been reported that Mr. Wafula is under constant surveillance and that a defamation campaign has been initiated against him by a member of parliament in North Eldoret.

1359. It is believed that Mr. Wafula is being targeted due to the fact that following, and perhaps as a result of, his report on activities in the Rift Valley, President Kibaki ordered a crackdown on Small Arms and Light Weapons in the country, and many former ex-servicemen have reportedly been accused of being involved in the purchasing of guns in the region”.

1360. Concern was expressed for the physical security of Mr. Wafula. Further concern was expressed that the arrest, harassment and intimidation of Mr. Wafula might be related to his human rights activities, in particular his reporting on the recent movement of arms in the Rift Valley.

Observations

1361. The Special Rapporteur regrets that at the time of finalizing the present report, the Government had not transmitted a reply to the aforementioned communications sent as well as to those sent on 19 September 2008, 15 August 2008, 22 May 2008, and 27 July 2005. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

1362. The Special Rapporteur is deeply disturbed about the killings of Mr. Francis Nyaruri Mr. Oscar Kamau King'ara, and Mr. John Paul Oulu, and the threats against Mr. Job Bwonya Wahdalia, Mr. Eric Wambasi, and Mr. Eliu Siyoi Tendet of the Western Kenya Human Rights Watch and Mr. Taiga Wanyanja. He urges the authorities to thoroughly investigate these violations, and bring the perpetrators to justice.

Kyrgyz Republic

Letter of allegations

1363. On 16 April 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations to the Government regarding concerns about **the restrictions to the effectiveness of human rights organizations in Kyrgyzstan that may result from the adoption of the amendments to the “Law on Non-Commercial Organizations”** (hereinafter: “the Draft Law”).

1364. On 18 February 2009, three members of the Parliament introduced a draft law entitled “Amendments to several legislative acts of the Kyrgyz Republic”. The main purpose of the Draft Law is to introduce amendments to the “Law of the Kyrgyz Republic on Non-Commercial Organizations” (hereinafter: NCO Law).

1365. According to the explanatory note to the initiative, the main objective of the proposed amendments is “to bring the legal basis regulating the activities of non-commercial organizations (hereinafter: NCOs) into conformity with current realities and increase the transparency in the interaction between NCOs and the state” and that “it came as a result of the necessity to provide security to the population and stability in the country.” While we consider the stated aim to enhance the transparency and accountability of civil society organization is legitimate, we are of the opinion that the Draft Law, if adopted in its current form will result in serious restrictions on the activities of NGOs working on a host of human rights issues.

1366. The Draft Law defines “political activity” in an overly vague manner by considering political activity as the “activity of the political parties, created for implementation of political will of certain part of the population and setting as its major task participation in the administration of state affairs only in the forms provided for by the Constitution of the Kyrgyz Republic and the Law of the Kyrgyz Republic on “Political parties”, as well as through introduction of proposals to the state bodies on improvement of the system of the administration of state and public affairs. “Activity in the process of a nationwide referendum” is defined as “an activity related to the participation of referendums and elections to the extent and in the forms established by the legislation on elections and referendums in the Kyrgyz Republic”. (paragraph 3 and 4 of Art 2). Article 3 of the Draft Law further states that “in the Kyrgyz Republic the participation of non-commercial organizations in political activity and activity in the processes of nationwide referendum is not permitted”. These provisions, if adopted, would essentially prevent NCOs from carrying out a wide range of activities relating to public policy formation, including activities related to promoting legislative reforms; to oppose state policy on different issues and to act as observers during elections or referendums. By contrast, the Tax Code of the Kyrgyz Republic does not prohibit all political activities of NCOs, rather only prohibits the “participation in the support of political parties and candidates of election campaigns”.

1367. The Draft Law also gives significant new administrative and discretionary powers to the Ministry of Justice, which includes new burdensome reporting requirements on NCOs; severe sanctions for failure to supply information; and the possibility to attend NCO events, including internal meetings. Under the Draft Law the Ministry of Justice may, without prior approval by the court, suspend the activity of an NCO or cancel its registration.

1368. The Draft Law would increase the reporting requirements of NCOs significantly if adopted. NCOs would be required to report on all funds received from foreign sources and how these are allocated or used. Severe sanctions are foreseen for failure to supply information. Repeated failure on the part of an NCO to provide the information required in a timely fashion may be grounds for the registration authority to cancel the registration of the NCO and bring a claim in court requesting a ruling that the NCO be liquidated. The Draft Law also provides the Ministry of Justice great discretionary powers to determine whether the activities of the NCOs are legal, and to determine whether certain activities or expenses of an NCO did not correspond to the statutory goals of the NCO. Registration of the branch or representative office of foreign NCOs can be rejected, among others, on the grounds that “the goals and tasks of the creation of the branch or representative office of foreign NCOs pose a threat to the sovereignty, political independence, territorial integrity, national unity and originality, cultural heritage and national

interests of the Kyrgyz Republic. (Art 8 of the Draft Law). These categories are overly broad and vague or not at all defined. The provision is also rather subjective and gives wide-ranging discretionary powers to the registration authorities to refuse registration even in advance of the organization conducting any activities, based on mere suspicion.

1369. The Draft Law also requires foreign citizens and stateless persons to be physically present in the territory of the Kyrgyz Republic in order to be founders or members of NCOs (Art 6-1). The provision however is very vague and it is unclear whether the requirement of physical presence in Kyrgyzstan only applies to the constituent meeting of the NCOs or to the whole lifespan of the organization. Such a provision is also problematic in that it openly discriminates against NCOs, as no such requirement exists for commercial entities.

1370. Several provisions of the Draft Law, especially those restricting the work of foreign and Kyrgyz NGOs are not consistent with Art 22 of the International Covenant on Civil and Political Rights, to which Kyrgyzstan is party, and Kyrgyzstan's Constitution. Furthermore, as a UN member state, Kyrgyzstan is required to uphold the UN Declaration on Human Rights Defenders. The Declaration, which was adopted by the General Assembly by consensus on 9 December 1998, does not contain new rights, but merely articulates existing ones so that it is easier to apply to the practical role and situation of human rights defenders.

Letter of allegations

1371. On 7 August 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations to the Government concerning Ms. **Aziza Abdirasulova**, Ms. **Gulnara Djurabaeva**, Ms. **Tolekan Ismailova** and Ms. **Asiya Sasykbaeva**, who are human rights lawyers representing four persons detained in connection with recent post-election demonstrations in Bishkek.

1372. Information concerning Ms Tolekan Ismailova was the subject of a communication sent on 10 January 2008 by the then Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. No response has been received yet from the Government to that communication.

1373. According to information received, on 29 July 2009, Ms. Aziza Abdirasulova, Ms. Gulnara Djurabaeva, Ms. Tolekan Ismailova and Ms. Asiya Sasykbaeva were contacted by four of the persons detained in connection with the demonstrations which took place in Bishkek regarding the results of the elections. They have represented the detained persons in the administrative hearings which took place at a Ministry of Defence facility located on the outskirts of Bishkek.

1374. On 31 July, Ms. Abdirasulova, Ms. Djurabaeva, Ms. Ismailova and Ms. Sasykbaeva protested against the arrests and detentions of demonstrators in front of the White House in Bishkek, by chaining themselves to the fence of the building. Shortly after the start of the protest, they were arrested by police officers.

1375. In a hearing held on the same day at the Pervomayski District Court of Bishkek, the four human rights defenders were charged with fines. Ms. Aziza Abdirasulova received a fine of 2.000 soms under Art.371 of the Administrative Responsibility Code for disobedience to legitimate authorities; Ms. Gulnara Djurabaeva received a fine of 1.000 soms under Art 371; Ms. Tolekan Ismailova received a fine of 500 soms under the same article, while Ms. Asiya Sasykbaeva received a fine of 2.000 soms under Art.392 of the Administrative Responsibility Code (violation of established procedure for organising and holding meetings, rallies, marches and demonstrations).

1376. Concern was expressed that the arrest and sentencing of the four human rights defenders may be related to their legitimate activities in defence of human rights, especially their work to provide legal defence to the persons arrested and detained in connection with the post-election demonstrations.

Response from the Government

1377. In a letter dated 29 September 2009, the Government responded to the communication sent on 7 August 2009. At the time of finalizing the present report, a translation of the response was not yet available.

Urgent appeal

1378. On 22 December 2009, the Special Rapporteur sent an urgent appeal regarding the murder of Mr. **Gennady Pavlyuk** and the attacks on Mr. **Alexander Evgrafov** and Mr. **Alexander Knyazev**. Mr. Gennady Pavlyuk was an independent journalist and an outspoken critic of the Kyrgyz Government. He was formerly the editor of the Kyrgyz edition of the Russian newspaper Argumenty i Fakty. He later became the editor of the Kyrgyz edition of Komsomolskaya Pravda, and a well-known writer for the independent newspaper Bely Parokhod. Bely Parokhod regularly reported on cases of corruption linked to the privatization of energy companies. Mr. Alexander Evgrafov is a correspondent for the Russian news agency BaltInfo. Mr. Alexander Knyazev is a political analyst.

1379. According to information received, on 22 December 2009, Mr. Gennady Pavlyuk died in a hospital in Almaty, Kazakhstan. He was thrown out of the 6th floor of a building in the centre of Almaty on 16 December 2009, with his hands tied behind his back.

1380. The Special Rapporteur noted that the death of Mr. Gennady Pavlyuk was the third in a series of assaults during the past week against Kyrgyz journalists of Russian origin. On 15 December 2009, Mr. Alexander Evgrafov was allegedly attacked and threatened by uniformed police. On 9 December 2009, Mr. Alexander Knyazev was attacked by unknown individuals in Bishkek.

1381. The Special Rapporteur expressed his concern that the murder of Mr. Gennady Pavlyuk and the attacks on Mr. Alexander Evgrafov and Mr. Alexander Knyazev may have been related to their journalistic activities opposing the Government of Kyrgyzstan. Further concern was expressed regarding the apparent polarization of political discourse and nationalist rhetoric in Kyrgyzstan which appears to disproportionately impact journalists of Russian origin.

Responses received to communications sent earlier

1382. By a letter dated 24 February 2009, the Government responded to the communication sent on 27 October 2008, regarding Mr. **Ivar Dale**, Mr. **Ramazan Dyryldaev** and Ms. **Guliza Omurzakova**.

1383. The Government reported the following information concerning the Norwegian Helsinki Committee located in Bishkek The Ministry of Internal Affairs, the State Committee for National Security and the Procurator's Office of the Kyrgyz Republic have made official enquiries concerning the complaints of the Norwegian national Ivar Dale, the Kyrgyz national Ramazan Dyryldaev and Guliza Omurzakova.

1384. A "Nelegal" raid by officers of the Ninth General Directorate of the Ministry of Internal Affairs on 9 June 2008 included checks on the activities of the staff of the Norwegian Helsinki Committee, based at Apartment 116, 77 Toktogul Street, Bishkek. At the time of the investigation, the occupant of the office was Elena Mamadnazarova, a national of the Russian Federation, who introduced herself as the programme coordinator for Central Asia. She explained that the manager of the office was Ivar Dale, a Norwegian national, who was absent at the time.

1385. In the course of inquiries, it was established that Mr. Dale had opened the representative office of the Norwegian Helsinki Committee at the above address. In reply to an enquiry from the Ministry of Internal Affairs during the course of the investigation, the Ministry of Justice stated that the Norwegian Helsinki Committee had not, since 1 January 1997, been listed on the Consolidated State Register of Legal Entities as having been either registered, reregistered or disbanded, in breach of article 20 of the Law on State Registration of Legal Entities.

1386. On 25 November 2007, the Consular Office of the Ministry of Internal Affairs issued Mr. Dale with visa No. 0229879, valid from 25 November 2007 to 25 November 2008. During the course of inquiries into Mr. Dale's reasons for being in Kyrgyzstan, it was established that he had also breached the External Migration Act. On 25 November 2007, in submitting his application for entry into the Kyrgyz Republic, Mr. Dale had provided false information about himself, thus misleading the Consular Office that had processed his entry visa. In particular, Mr. Dale had stated that the reason for his presence in the Kyrgyz Republic was tourist business, which did not correspond with the real purpose of his stay in the country. Mr. Dale breached thereby the rules on staying in the territory of the Kyrgyz Republic, as set out in article 390 of the Code of Administrative Offences and articles 17, paragraph 1, and 29, paragraph 2, of the External Migration Act.

1387. On the basis of the above, officials of No. 9 Unit of the Sverdlov District Department of Internal Affairs in Bishkek assembled the administrative evidence and dispatched it to the Sverdlov District Court for consideration. In view of the fact that Mr. Dale had departed for Norway and had been absent from the territory of the Kyrgyz Republic for over a month, the evidence was considered on 5 September 2008 by the Sverdlov District Court, which discontinued its consideration of the administrative evidence that Mr. Dale had committed an offence under article 390, paragraph 1, of the Code of Administrative Offences, since the time limit for the imposition of administrative penalties had passed.

1388. The General Directorate of the Border Service reported the arrival at Manas Airport on flight No. 179 from Moscow to Bishkek of the Norwegian national, Mr. I. Dale, born 15 June 1976, on whom there was a report outstanding that multiple-entry visa No. 0229879 had been issued on 25 November 2007 in breach of the established regulations. His visa was therefore cancelled by the consular unit at Manas Airport and he was issued with single-entry visa No. 0283656 on 22 August 2008, valid until 1 September 2008, on which he entered the Kyrgyz Republic.

1389. On 12 October 2008, Mr. Dale again arrived at Manas Airport on flight No. 179 from Moscow to Bishkek but was refused entry and left on 13 October 2008 on flight No. 1347 from Bishkek to Istanbul. The reason that Mr. Dale was refused entry was that he appeared on a list of persons prohibited entry into the territory of the Commonwealth of Independent States (CIS) under article 3 of the Protocol on cooperation in denying entry into the territory of CIS member States to persons having no grounds for entry and article 7, paragraph 2, of the External Migration Act.

1390. The decision to deny to the Norwegian national Ivar Dale entry to the Kyrgyz Republic was taken by the competent authorities on the basis of his flagrant breach of the rules and requirements of Kyrgyz legislation and lack of respect for the laws of the host country. It should be noted that this practice is widespread throughout the world by States protecting their interests and no explanation is required of them.

1391. On 15 October 2008, the duty inspector of the Ministry of Internal Affairs Road Safety Unit, Mr. T.T. Seitaliev, who was investigating the details of victims of a traffic accident using data from Bishkek Municipal Clinical Hospital No. 4 found that Mr. Ramazan Dyrlydaev had attended as a patient as a result of a traffic accident at the intersection of Akhunbaev Street and Dushanbe Street in Bishkek. Mr. Dyrlydaev had been given medical treatment but had refused hospitalization. The address entered in the patients' register was incorrect, being listed as 123 Ibraimov Street, Bishkek, which does not exist. Steps were taken to establish Mr. Dyrlydaev's mobile telephone number and he was contacted with a view to obtaining a written statement on the accident. Mr. Dyrlydaev, however, declined to meet officers of the Ministry of Internal Affairs Road Safety Unit, Bishkek, claiming that he was very busy at work and could not spare the time. Owing to an error on the part of Mr. Seitaliev, the duty inspector concerned, the accident was not duly registered. Following official enquiries, Mr. Seitaliev was released from his duties and the responsible officials who permitted the registration failure to occur were disciplined. Measures are currently being taken to draw up an official accident report and identify the vehicle that collided with the vehicle driven by Mr. Dyrlydaev.

1392. The official inquiries conducted by the Ministry of Internal Affairs thus show that there was no causal link between the situation concerning the stay in the Kyrgyz Republic of the Norwegian national Ivar Dale, the road accident involving Mr. Dyrlydaev and the social activities of the two men.

Observations

1393. The Special Rapporteur wishes to thank the Government for the responses transmitted to communications sent on 7 August 2009, 27 October 2008 and 5 November 2008. The Special Rapporteur regrets that at the time the present report was finalized, no response had been

received to the communications sent on 16 April 2009, 15 August 2008, 21 July 2008, 24 April 2008, 4 February 2008, 24 January 2008, 10 January 2008, 31 October 2007, 23 October 2007, and 9 May 2007. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

Libyan Arab Jamahiriya

Urgent appeal

1394. On 22 January 2009, the Special Rapporteur, together with Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, sent an urgent appeal to the Government regarding the situation of Mr. **Salem Madi**, Mr. **M'hamed Hamrani**, Ms **Aissa Sijouk**, Mr. **Fethi Benkhelifa** and Mr. **Mohamed Akchir**. The aforementioned human rights defenders are members of the Federal Council of the World Congress of the Amazigh (CMA). The CMA is an international NGO for the defence of the rights of the Amazigh (Berber) people, created in 1995. According to the information received:

1395. On 24 December 2008, at approximately 11 a.m., around 300 members of the organization the "Youth of Tomorrow's Libya" and the "Revolutionary Committees" gathered for a meeting in the town of Yfren, in Nefussi Province, west of Tripoli. The meeting took the form of an informal popular tribunal to try and convict defenders working on the human rights of the Amazigh people without formal judicial process. The gathering specifically targeted those human rights defenders who participated at the last General Assembly of the World Congress of the Amazigh held from 31 October – 2 November 2008 in Meknes, Morocco. At the meeting Mr Salem Mdi, Mr M'hamed Hamrani and Ms Aissa Sijouk were publicly accused of being separatists and working for foreign interests. Mr Fethi Benkhelifa and Mr Mohamed Akchir were also part of the list of defendants mentioned during the meeting.

1396. After approximately one hour, the leaders of the meeting, whose identity is known to the Special Rapporteurs, called on the individuals present to attack the homes of the CMA members. A crowd of some 500 people, which included plain-clothes police officers and was surrounded by soldiers, gathered outside the residence of Mr. Salem Madi. The assembled group threw stones at the home, breaking several windows. The home of an elderly woman, Ms. Aicha Elkeblaoui, was also damaged. Unidentified individuals also painted "Death to traitors" and other threats on the front of the residence. The police and military officers present did not intervene.

1397. Prior to departing from the scene, organizers of the meeting threatened to kill anyone who participated in any meeting concerning the "Amazigh issue." They also announced that punitive measures would be conducted in the coming days against Amazigh activists, especially in the localities of Zuwara, Jadu, Cabao and Ubari. To date these death threats have not been implemented. Following the attack on his home, Mr. Salem Madi filed a complaint with the Yfren Court. As yet, no response has been received.

1398. Concern was expressed regarding the physical and psychological integrity of Mr Salem Madi, Mr M'hamed Hamrani, Ms Aissa Sijouk, Mr Fethi Benkhelifa and Mr Mohamed Akchir. Further concern was expressed that the harassment of, and attacks on, the above-mentioned persons may be related to their activities defending human rights, in particular the rights of the Amazigh people.

Observations

1399. The Special Rapporteur regrets that at the time of the finalization of the present report, the Government had not transmitted any replies to his communications of 4 February 2008, 10 June 2005, 9 December 2004, 22 September 2004, and 21 April 2004. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

Lithuania

Urgent appeal

1400. On 16 July 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding the **adoption of the Law on the Protection of Minors against the Detrimental Effect of Public Information**.

1401. According to information received, on 14 July 2009, the Seimas (Lithuanian Parliament) voted to adopt the "Law on the Protection of Minors against the Detrimental Effect of Public Information". The legislation had initially been passed by the Seimas on 16 June only to be vetoed by former President Valdas Adamkus one week later. The Presidential veto was overturned by a majority vote of 87 representatives. The law takes effect after the new President Ms. Dalia Grybauskaitė signs it into law, which she is reportedly required to do within three days.

1402. The "Law on the Protection of Minors against the Detrimental Effect of Public Information" seeks to ban public dissemination of information considered harmful to the mental health or the intellectual and moral development of minors. It would also ban all materials that "agitate for homosexual, bisexual and polygamous relations" from schools or other public places where they can be seen by youth.

1403. The Law classifies public information about homosexuality and bisexuality in the same category as other prohibited material, such as that which portrays physical or psychological violence and graphic depictions of dead bodies.

1404. In December 2008, a joint statement on human rights and sexual orientation and gender identity, was presented by 66 States, including Lithuania, at the United Nations General Assembly. The statement called upon other States to promote and protect the human rights of all persons, regardless of their sexual orientation or gender identity and to remove obstacles that

prevent human rights defenders from carrying out their work on issues of human rights and sexual orientation and gender identity.

1405. Concern was expressed that the aforementioned legislation may result in limiting the right of freedom of expression in Lithuania. Further concern was expressed that the law could be applied to limit the legitimate work of human rights defenders, particularly those working to defend the rights of Lesbian, Gay, Bisexual and Transgender (LGBT) people in the country.

Response from the Government

1406. In a letter dated 11 September 2009, the Government responded to the communication sent on 16 July 2009. The Government transmitted the response of the Ministry of Culture of Lithuania as follows.

1407. Accuracy of the facts. The Law on the Protection of Minors against the Detrimental Effect of Public Information was signed by the President Ms. Dalia Grybauskaitė and published on 21 July 2009 (Official Journal, 2009, No. 86-3637) and takes effect only on 1 March 2010, not immediately after the President had signed it.

1408. The Law does not classify all public information about homosexuality and bisexuality as harmful information, but Article 4, provision 14 states that, “Public information having a detrimental effect on the mental health, physical, intellectual, or moral development of minors shall be considered the information (...) whereby homosexual, bisexual or polygamous relations are promoted”. It is necessary to mention that the Law does not restrict or limit accumulation and/or dissemination of information about homosexual, bisexual or polygamous relationship. The Law only limits direct and public information propaganda for minors of homosexual, bisexual or polygamous relationship. Furthermore, Article 5 of the Law stipulates that any public information may be non-assigned to the category of information having a detrimental effect on the mental health, physical, intellectual or moral development of minors where it conforms to the criteria set out in sub-paragraphs 1-19 of paragraph 1 of Article 4 of this Law, whereas it conforms one of these criteria: 1) its content is composed only of information about events, political, social, religious beliefs or outlook; 2) the information is significant from a scientific or artistic point of view or it is necessary for research and education; 3) there is a public interest to make it available to the public; 4) its scope and effect are minor. Therefore, there is no presumption to allege that all information about homosexual, bisexual or polygamous relationship is forbidden.

1409. Currently, the Ministry of Culture had presented and registered new draft of the Law on the Protection of Minors against the Detrimental Effect of Public Information Article 4 provision 14, whereas norm “whereby homosexual, bisexual or polygamous relations are promoted” should be changed into “whereby sexual relations are promoted deliberately” (Project registered in Lithuanian Parliament on 27 July 2009, project No. XIP-953). This Project will be considered in the next session of the Seimas beginning in September 2009.

1410. Freedom of expression of LGBT people. There is no special legal regulation for freedom of expression of LGBT people whereas the Constitution of Lithuania states the respect of human rights (including freedom of expression) of all groups of people, not excepting LGBT people. Article 25 of the Constitution states that “the human being shall have the right to have his own

convictions and freely express them”. As well as Article 29 of the Constitution states that “All persons shall be equal before the law, the court and other State institutions and officials. The rights of the human being may not be restricted, nor may he be granted any privileges on the ground of gender, race, nationality, language, origin, social status, belief, convictions, or views”. Therefore it fully complies with the International Covenant on Civil and Political Rights and other international treaties, as mentioned above.

1411. Compatibility of the Law with international human rights norms and standards. Children’s rights and their welfare are covered in a number of pieces of legislation. A World Fit for Children Declaration adopted by the United Nations General Assembly in 2002 encourages states to create a world in which all girls and boys can enjoy childhood, in which they are loved, respected and cherished, where their safety is paramount and where they can develop in health, peace and dignity. Article 17 of the United Nations Convention on the Rights of the Child stipulates that “States Parties shall (...) encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being”. In its Concluding Observations of 26 January 2001 regarding the initial report of Lithuania on the implementation of the UN Convention on the Rights of the Child in Lithuania, the United Nations Committee on the Rights of the Child encouraged Lithuania “to further enforce appropriate guidelines and legislation for the protection of the child from information and material injurious to his or her development, in particular violence and pornography”.

1412. While legislating the Law on the Protection of Minors against the detrimental effect of Public information Lithuanian Parliament Is pursuing the goal of balance between the freedom of expression, freedom of thought or freedom of association as stated in the European Convention for the Protection of Human Rights and Fundamental Freedoms, Charter of Fundamental Rights of the European Union, the International Covenant on Civil and Political Rights and the Declaration on Human Rights Defenders and public interest to protect minors from public information which may have a negative impact on minors’ health, physical, intellectual and/or moral development, that is trying to protect the morality of minors. This duty for the State to protect minors derives also from EU Directive 89/552/EC, which stated that “Member States shall take appropriate measures to ensure that television broadcasts by broadcasters under their jurisdiction do not include any programmes which might seriously impair the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence” (Art 22). It is necessary to remark that the European Human Rights Court in case *Handyside v. United Kingdom* in 1976 December 7th decision noted that there is no unanimous concept of morality, therefore every member state has a right to evaluation freedom when taking measures to protect persons’ morality. Moreover, international legal acts regulating freedom of expression stipulate some possibilities to take restrictions to freedom of expression or freedom of association. And one of the versatile restrictions to freedom of expression and freedom of association is made with the purpose to protect persons’ morality. Therefore the Law sets few restrictions, which are taken to protect minors as a special group and are justified as essential and proportional. Once again, the Law does not discriminate against or prohibit any kind of relationship or lifestyle, which is a freedom and right to a private life of every individual. On the contrary, the Law provides for the criteria which prohibit any kind of sexual propaganda targeted at minors since it has a negative impact on their development. Moreover, freedom of association

as it is set in the International Covenant on Civil and Political Rights and the Declaration on Human Rights Defenders may be enjoyed as it complies with the Article 5 of the Law (“Non-assignment of Public Information to the Category of Information Having a Detrimental Effect on the Development of Minors”).

1413. It is noteworthy that the Lithuanian Human Rights Association had made a public statement (20 July 2009), stating and both regretting that criticism of the Law is ungrounded. The Association had reviewed and evaluated legal liabilities of Lithuania in the area of human rights and made a statement that none of the Law norms contravene with the European Convention for the Protection of Human Rights and Fundamental Freedoms (article 9 – Freedom of thought, conscience and religion, Article 10 – Freedom of expression, Article 14 – Prohibition of discrimination).

Observations

1414. The Special Rapporteur wishes to thank the Government for the detailed response transmitted.

Madagascar

Lettre d’allégations

1415. Le 24 février 2009, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé une lettre d’allégations au Gouvernement concernant le décès de 28 personnes le 7 février à Antananarivo qui serait imputable aux forces de sécurités malgaches.

1416. Selon les informations reçues, au moins 28 personnes ont été tuées par les forces de sécurité malgaches le samedi 7 février 2009 à Antananarivo, lors d’une manifestation anti-gouvernementale.

1417. Les faits se seraient produits alors que la manifestation progressait en direction du palais présidentiel. Les forces de sécurité auraient alors ouvert le feu sur les manifestants tuant 28 d’entre-eux.

1418. Selon les allégations, la réaction des forces de sécurité aurait été clairement disproportionnée car les manifestants n’étaient pas armés et la manifestation se déroulait de manière pacifique.

Appel urgent

1419. Le 2 juin 2009, le Rapporteur spécial, conjointement avec la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire, le Rapporteur spécial sur l’indépendance des juges et des avocats, et le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants, a envoyé un appel urgent au Gouvernement sur la situation de M. **Rabenantoandro Lanto**, âgé de 48 ans, sénateur de Madagascar élu au titre du parti « Tiako I Madagasikara (TIM) » et président de la Commission de finances du Senat ; M. **Randrianjatovo Henri François Victor**, âgé de 61 ans, député du Faratsiho, élu au titre du parti « Tiako I Madagasikara » ; M. **Rakotomandimbandraibe Mamisoa**, âgé de 47 ans, député de

Ambatolampy élu au titre du parti « Tiako I Madagasikara »; M. **Rakotozandry Raymond**, âgé de 49 ans, député de Mandoto élu au titre du parti « Tiako I Madagasikara »; et M. **Ralitera Andrianandraina**, Directeur de sécurité de la Haute Cour constitutionnelle.

1420. Selon les allégations reçues, les quatre députés auraient été arrêtés sans mandats d'arrêt le 23 avril 2009, à Ambatoroka-Ambanidia à Antananarivo par les Forces armées du CAPSAT, y compris le Commandant Charles Andrianasoavina sous les ordres de la Haute Autorité de Transition (HAT) et de la Commission Nationale Mixte d'Enquête (CNME). Bien qu'ils n'aient pas résisté à l'arrestation, ils auraient été frappés, giflés et auraient reçu des coups de poing pour les humilier et les intimider. On les aurait aussi forcés de s'agenouiller devant les officiers et de marcher sur les genoux. En résultat de ces traitements, ils auraient eu des bleus, contusions et maux de tête. Ils auraient ensuite été embarqués dans un camion militaire pour être amenés dans trois endroits différents et finalement descendus à Ambohibao, siège de la CNME (Commission Nationale Mixte d'Enquête) pour une garde à vue de 48 heures. Ensuite ils auraient été déferés en prison.

1421. Suite à une détérioration de sa santé, M. Lanto Rabenantoandro aurait été transféré à l'hôpital militaire de Soavinandriana, où il aurait bénéficié des traitements médicaux adéquats pendant quelques heures. Le 25 avril 2009, dans la matinée, des militaires armés l'auraient conduit au Palais de Justice à Anosy pour enquête et directement incarcéré dans la maison d'arrêt à Antanimora. Malgré le certificat médical du médecin traitant et la recommandation du médecin pénitentiaire de transférer M. Lanto Rabenantoandro dans un hôpital, l'hospitalisation aurait eu lieu avec un délai considérable.

1422. Ralitera Andrianandraina aurait été arrêté le 27 avril 2009 par Alain Ramarason, responsable de la sécurité au niveau de la HAT - CNME dirigé par le Commandant Charles Randrianasoavina. Pendant l'arrestation, il aurait été frappé sur la tête et forcé de marcher sur les genoux. Son état de santé serait inquiétant. Ni son avocat ni un médecin n'auraient été autorisés à le voir.

Observations

1423. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à communications envoyées le 24 février 2009 et le 2 juin 2009. Il exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celles-ci, notamment en fournissant des informations précises sur les enquêtes menées afin de traduire en justice les auteurs des faits et les mesures de protection prises. Il considère les réponses à ses communications comme partie intégrante de la coopération des gouvernements avec son mandat.

Malawi

Urgent appeal

1424. On 9 March 2010, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding **Mr. Edward Chileka, Mr. Howard Jimu and Mr. Awonengi Chimera**. Mr. Chileka is the

Executive Director of Eye for Development (EFD), and Messrs. Jimu and Chimera are staff members of EFD. EFD is a youth organisation, member of the Global Call to Action against Poverty (GCAP) Coalition in Malawi.

1425. According to the information received, on 24 February 2010, Mr. Chileka, Mr. Jimu and Mr. Chimera were reportedly arrested and detained after a press conference on the charge of “incitement to violence against members of the Democratic Progressive Party (DPP) Youth.” On 4 March 2010, they were denied bail by a Court in Lilongwe. The next hearing is scheduled for 11 March 2010.

1426. It is reported that their arrest follows the issuance, during the press conference, of a media statement criticising the Government’s decision that youth groups affiliated with the DPP will have priority in the distribution of the State Youth Enterprise Development Fund.

1427. Concern was expressed that the arrest and detention of Mr. Chileka, Mr. Jimu and Mr. Chimera might be directly related to their work in defense of human rights, notably in the exercise of their right to freedom of opinion and expression.

Observations

1428. The Special Rapporteur regrets that at the time of finalization of the report, no response had been received from the Government regarding the letter of allegations sent on 9 March 2010.

Malaysia

Letter of allegations

1429. On 12 June 2009, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations regarding the situation of Mr. **V. Ganabatirau**, Mr. **R. Kenghadharan** and Mr. **M. Manoharan**, lawyers of the Hindu Rights Action Force (HINDRAF), Mr. **P. Uthayakumar**, legal adviser, and Mr. **T. Vasanthakumar**, organizing secretary of the same organization.

1430. The five afore mentioned persons were the subject of a first urgent appeal sent on 27 December 2007 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the former Special Representative of the Secretary-General on the situation of human rights defenders. A second urgent appeal was sent on 21 April 2008, by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

1431. According to new information received, after being arrested on 13 December 2007, under Section 8(1) of the Internal Security Act (ISA), for carrying out activities threatening the national security of the State, Mr. V. Ganabatirau, Mr. R. Kenghadharan, Mr. P. Uthayakumar, Mr. M. Manoharan, and Mr. T. Vasanthakumar, challenged their detention on several occasions. On 26 February 2008, the Kuala Lumpur High Court rejected their habeas corpus applications. On 14 May 2008, an appeal of this decision was dismissed.

1432. A new habeas corpus appeal before the Apex Court is still pending. Although, on 11 February 2009, the Federal Court unanimously dismissed the five HINDRAF leader's motion for review of their habeas corpus application, confirming precedent judicial decisions in which it was stated that the Prime Minister could order a person to be detained under Section 8 of the ISA without waiting for full investigation by the police.

1433. On 5 April 2009, 13 detainees under the ISA were removed from the Kemta Prison, Kamunting, Perak, including Mr. V Ganabatirau and Mr. R. Kenghadharan, and were placed under the Restricted Residence Act (RRA). Mr. P. Uthayakumar, Mr. M. Manoharan and Mr. T. Vasanthakumar remained detained under the ISA at the Kemta Prison, Kamunting, Perak.

Response from the Government

1434. In a letter dated 26 August 2009, the Government responded to the letter of allegations, indicating that the summary of the case outlined by the experts in the communication is not entirely accurate. In its reply, the Government indicated the following.

1435. Despite its establishment in 2005, HINDRAF remains a non-registered society, which in itself is a contravention of the Societies Act 1996 [Act 335]. It has been promoting ethnic Indian issues to an extent that has incited racial and religious hatred of the predominantly Hindu ethnic Indian community against Malay-Muslims.

1436. Rallies held previously and smear campaigns in Britain, the United States of America and India with claims that Malaysia is committing ethnic cleansing against Indians as a community subjected to systematic state repression – aggressively inciting feelings of ill-will amongst the races in Malaysia with deeply hurtful racial and religious rhetoric have resulted in the probability of any peaceful gathering a near impossibility.

1437. As a result of a police report no. DANG WANGI/036781/07 lodged on 4 December 2009, the police is currently investigating the linkage between HINDRAF and the Liberation Tigers of Tamil Eelam, an international terrorist organization.

1438. On 6 November 2007, HINDRAF applied for a permit to hold a gathering to submit a memorandum to the British High Commission in Jalan Ampang, Kuala Lumpur. The application was given due consideration and was rejected by the Officer in Charge of Police District (OCPD) on 16 November 2007, and subsequently by the Kuala Lumpur Chief of Police upon appeal.

1439. The application and appeal by HINDRAF was rejected on the grounds of maintaining public safety and order. The planned protest would have taken place within the vicinity of a busy shopping district with full public access. The proposed gathering venue is also close to where several foreign mission offices are located, such as the French Embassy and the U.S. Embassy.

1440. To further justify their stand, two days prior to the protest, the Police had obtained an order from the Magistrate's Court in Kuala Lumpur to restrain the HINDRAF movement leaders and its supporters from carrying out and/or participating in the said protest. The said Order was then served on each of the five detainees on 23 November 2007, with copies of the same posted at various public places in and around the vicinity of the planned venue, and through media coverage.

1441. The necessity of the said court Order came after the Police found one of the detainees, M. Manoharan, present at a public gathering and brazenly commanding its followers to turn up in full force on the day of the planned rally with the womenfolk to dress in orange *sarees* (the traditional ethnic Indian female dress) and the men to don the traditional white Indian garb.

1442. Based on information gathered, it is clear that the probability of having a peaceful protest in a highly sensitive location was low and as such the police sought to curtail any possibility of a protest by obtaining the court order. The police had made all efforts to inform the public and possible protesters of the illegality of the rally both in the media as well as posting signs in conspicuous places. The police set up checkpoints to control the influx of would be protesters as well as limit the number of innocent people that may get hurt should the planned protest go ahead. Nonetheless, their efforts came to naught. It is also based on the above situation that the police felt that the protesters' state of mind was confrontational and would have led to more violence had the police allowed the demonstrations.

1443. We have managed to collate the following data and reconstruct the events relating to the violent demonstrations as follows. Despite the warnings, during the early hours of the morning of 25 November 2007, the police received information that a crowd of between 200 and 300 people had gathered at the Batu Caves Temple.

1444. Upon receiving this information, the Police, in anticipation of a planned illegal gathering spearheaded by HINDRAF, rushed to the scene. There they saw a large crowd, mostly ethnic Indians, gathered outside the Temple gates, with some carrying posters of Mahatma Gandhi bearing the words "We Want Our Rights", and others wearing HINDRAF headbands and armbands.

1445. At the Batu Caves Temple, the Police had advised and given several warnings to the members of the rally to disperse. They refused, and instead forced open the Temple gates and damaged the properties there. The crowd had swelled to almost two thousand people. The police heard from inside the Temple grounds, several speeches rang loud crying out economic discrimination against the Indian community by the government, and instigating an already agitated crowd to start marching to the British High Commission in the city centre.

1446. The crowd grew bolder and more defiant. Repeated warnings to disperse by the police were summarily ignored. The police were pelted with rocks and bricks, and several police vehicles were damaged as a result. The police were left with no choice but to use water cannons and tear gas to disperse the unruly crowd. Nevertheless, only minimal and reasonable force was used to arrest 68 people at Batu Caves at around 4 a.m. that day.

1447. Based on the reports gathered by the police, the water cannons that were used at the Batu Caves incident were not laced with any form of chemical. It was plain water.

1448. The arrests at Batu Caves did not seem to deter another large group from assembling at the city centre the same morning. Here too, the police gave them ample time and opportunity to disperse, but after a long stand-down and countless calls to disperse, the police were forced to charge when the members of the assembly became unruly and started throwing rocks at the police. Tear gas canisters that were fired into the crowd were picked up and thrown back at the police; and water cannon jets caused them to scatter only to regroup in greater force shortly afterwards.

1449. In the incident at the city centre, the police did resort to using *chlorobenzal melano nitrate*, more commonly known as CS gas, which is a commonly used non-lethal riot control agent to disorient protesters and encourage them to disperse. According to reports gathered from the police, the concentration of CS gas was only 2 percent as compared to 98 percent water. Besides, the police stated in their reports that they initially used plain water on the crowd but they refused to disperse. It was only after the use of water had failed that the police resorted to CS gas.

1450. At least four police officers were injured in scuffles with protesters who defied arrest, with one police officer requiring up to 40 stitches to his head after being hit by a hard object.

1451. A total of 54 persons were arrested at the city centre that day. It was not 70 people trying to escape but actually 54 actively involved as protesters that were detained.

1452. On 13 December 2007, the Minister of Internal Security of Malaysia issued detention orders pursuant to section 8(1) of the Internal Security Act 1960 (ISA) against Mr. Manoharan, Mr. Ganabathirau, Mr. Vasanthan Kumar, Mr. Uthayakumar and Mr. Kenghadaran.

1453. The cumulative actions taken by the detainees in aggressively inciting feelings of ill-will amongst the races in Malaysia with deeply hurtful racial and religious rhetoric and sowing hatred towards the Government have resulted in their detention under section 8(1) of the ISA on the grounds that they were a threat to public order and national security.

1454. Another issue to be highlighted is the fact that the detainees were detained under section 8 of the ISA, which is an independent and separate provision from section 73. Section 8 of the ISA detention is independent and can be operated on its own without relying on arrests and inquiries under section 73 of the ISA. The police had completed all the necessary investigations and submitted it to the Minister. The Minister then showed his independent mind by relying on his own opinion based on the facts and the surrounding circumstances relating to HINDRAF's activities and came to the conclusion that their activities were detrimental to public order and found them to be a threat to national security and public order in the country.

1455. As such the issue of a sixty day period does not arise since under section 8 the Minister has the right to order for the detention for a period of up to two years. The rights and safeguards as enumerated above are applicable and had been utilised by the detainees.

1456. The Government also informed that on 9 May 2009, Mr. Uthayakumar, Mr. Manoharan and Mr. Vasanthakumar were released from Kamunting Detention Centre, but that they are subject to certain terms where they are restricted to Brickfield, Kuala Lumpur, Klang, Selangor and Kajang, Selangor areas, on the basis of section 10 of the ISA.

1457. In addition, the Government provided further information regarding the ISA. It indicated that the ISA, which came into force on 1 August 1960 (West Malaysia) and 17 September 1963 (East Malaysia), aims to counter the subversive elements and threats to national security. Its purpose is to provide for the internal security of Malaysia, preventive detention, the prevention of subversion, the suppression of organized violence against persons and property in Malaysia and matters incidental thereto. The ISA is needed to maintain peace, stability and security of persons in Malaysia.

1458. The ISA empowers the prevention detention of persons suspected of acting in any manner prejudicial to (a) Malaysia's national security; (b) maintenance of essential services; or (c) the economic life of Malaysia.

1459. By virtue of section 73 of the ISA, it allows arrest without warrant and detention by the police not exceeding sixty days unless with a written order by the Minister pursuant to section 8. Whereas section 8 of the ISA provides for the Minister's power to make an order for the detention of any person without trial for up to two years, on the ground that the Minister is satisfied that the detention is necessary to prevent the person from acting in any manner prejudicial to national security. Such detention order may be renewed for a further period not exceeding two years at a time.

1460. In implementing acceptable human rights principles and standards, the Government of Malaysia reiterates that the implementation must take into consideration the prevalent public and national interest of the country. As a multi-racial country, it is important for the Government of Malaysia to maintain the unity amongst the races as it is foundation for peace and stability. In this context, the right to freedom of speech and expression should not be abused to incite racial hatred. Some fundamental liberties should not be abused to disturb the peace and stability of the country.

1461. The restrictions imposed are also consistent with the provisions of international human rights instruments. For example, in the Universal Declaration of Human Rights (UDHR), article 19 states that everyone has the right to freedom of opinion and expression. However, UDHR itself provides for limitations to both freedoms. IN this regard, article 29(2) of the UDHR provides that in the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting just requirement of morality, public order and general welfare in a democratic country.

1462. Another example is the International Covenant on Civil and Political Rights (ICCPR), where article 19(3) provides that the right to freedom of opinion and expression can be restricted if it is provided by law and necessary for the respect of the rights or reputation of others, protection of national security, public order (*ordre public*), public health or morals.

1463. Article 21 of the ICCPR provides for the right of peaceful assembly. Article 4(1) further provides that in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under their present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the grounds of

race, colour, sex, language, religion or social origin. Articles 19 and 21, which provide for the rights to freedom of expression and assembly respectively, do not fall under the rights that cannot be derogated. This further illustrates that article 19(1) cannot be construed as a core human rights principle.

1464. In conclusion, the facts as we have stipulated above represents the true facts of the case involved. There was no violation of human rights of any person or class of persons or any ethnic group.

Letter of allegations

1465. On 20 August 2009, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations concerning the **repression of peaceful demonstrations** and the **arrest of approximately 600 protesters, including 40 minors**.

1466. According to information received, on 1 August 2009, peaceful demonstrations against the Internal Security Act (ISA) took place in Kuala Lumpur at three locations (Masjid Jamek and Msjid Negara mosques and Sogo Shopping Centre). It has been reported that police used tear gas, water cannons and chemically-laced water to disperse the growing crowds.

1467. Police also allegedly arrested nearly 600 people, including 40 minors. Some of the persons arrested were charged under the Police Act, which requires a permit for gatherings of four or more people, or under the Societies Act for distributing T-shirts for the demonstrations. Prominent opposition politicians and leaders of the anti-ISA movement were reportedly targeted for arrests by the police and were consequently charged with illegal assembly.

1468. Concern was expressed that the measures taken by the police against peaceful demonstrators might be an attempt to stifle the right to freedom of expression and the related right to peaceful assembly and association.

Response from the Government

1469. In a letter dated 24 November 2009, the Government responded to the letter of allegations, indicating that the summary of the case outlined by the experts in the communication is not entirely accurate. The Government clarified that the anti-ISA demonstration on 1 August 2009 was not peaceful, since it caused severe traffic disruptions on all major roads in Kuala Lumpur. Further, due to the large influx of protesters from outside Kuala Lumpur, the transportation system and the economic sector such as businesses, tourism and public services in the city centre were seriously and adversely affected by that demonstration.

1470. The police had issued a warning through the mass media three days before the demonstrations took place, informing the public that no application under relevant laws was made by any part staging the demonstration and no permit was issued for the demonstration that took place. Through loudspeakers, the police had repeatedly urged the protestors who had assembled and blocked major roads to disperse. Nevertheless, the requests and warnings of the police were ignored and the protestors grew more violent. Consequently, the police used water

canons and tear gas to disperse the mob. Such measures were only applied as a last resort when repeated attempts by the police to ask the protestors to disperse voluntarily were ignored. At no time was chemically-laced water used on the protestors.

1471. During the course of its operations related to the demonstration, the police had made 458 arrests. All arrests were legally executed under the relevant laws. Out of the 458, 377 persons were released within 24 hours of their arrest. The remaining 81 persons, including 4 minors aged between 13 and 16 years, were held under remand. Subsequently, 52 persons, including 3 minors, were released. The remaining 29 persons were formally charged under section 27(5) of the Police Act 1966 1967 (act 344) and section 143 of the Penal Code (Act 574) on 3 August 2009, including 1 minor who was formally charged under section 43 of the Societies Act 1966 (act 335). The detained minors were not handcuffed and were held in a separate lock-up for minors at Petaling Jaya police station. They were afforded the right to counsel as soon as practicable as provided for under the Federal Constitution. All detainees, including the minors, were given food when they were taken in for documentation and during their detention in lock-up. The basic rights of the arrested persons, including the minors, were neither breached, nor compromised in any way.

1472. The roadblocks set up at 00.00 hours on 31 July 2009 were aimed at ensuring public safety and security, and there was no security blockade imposed by the Government on train stations, Lights Rail Transit and Monorail users. Those persons who wore black and red T-shirts with various slogans were arrested due to their participation in the unlawful demonstration or having the common intention to participate in the unlawful demonstration. No blanket ban on the wearing of black and red T-shirts was imposed.

1473. In depositing its instrument of ratification to the Convention on the Rights of the Child (CRC), Malaysia had submitted reservations against article 37 to the effect that it will only apply if it is in conformity with the federal Constitution, national laws and policies of the Government. The Child Act 2001 (Act 611) sufficiently protects the rights of children who are detained or arrested. In particular, section 85(1) of Act 611 provides that appropriate arrangements should be made to separate child and adult offenders in detention. The arrest and detention of minors were undertaken in full compliance with the relevant national laws and despite its reservations, is fully consonant with the provisions of article 37 of CRC.

1474. Article 10(1)(b) of the Federal Constitution guarantees the right to peaceful assembly subject to restrictions which may be imposed by Parliament pursuant to article 10(2)(b). Section 27 of Act 344 empowers the Royal Malaysian Police to regulate assemblies, meetings and processions in public places. Under section 27(2), any person intending to convene an assembly, meeting and procession in any public place is required to apply to the Officer in Charge of a Police District or any other police officer duly authorized by him in writing has the power to give directions on how assemblies, meeting, processions may be held in public places. Under section 27(2A), an application for a license to assemble in public shall wither be made jointly by three individuals or an organization. Under section 27(3), an assembly in respect of which a licence has not been issued may be stopped by any police officer and the failure to disperse in accordance with such instructions amounts to an offence under section 27(4).

1475. The Government adheres to the underlying philosophy and norms set forth in articles 19 and 20(1) of the UDHR, and articles 5(a) and 12 of the Declaration on Human Rights Defenders. Nonetheless, Malaysia notes that article 29(2) of the UDHR determines that in the exercise of the abovementioned rights and freedoms, everyone shall be subject to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting just requirement of morality, public order and general welfare in a democratic society. Seen in this light, it is therefore clear that the provisions of Act 344 are in full compliance with international norms and standards on the right to freedom of assembly. At the same time, Malaysia remains under a special duty and obligation to enforce the relevant laws to ensure that assemblies respect the rights of the general public and does not interfere with public order.

1476. The Societies Act 1966 (Act 335) was introduced to regulate the registration of societies. It does not impose a blanket prohibition on the right of individuals to form, join or participate in any association (see sections 5, 6, 7, 41 and 43 of Act 335). The Government understands that the Declaration on Human Rights Defenders outlines some specific duties of the State and responsibilities of every person regarding defending human rights. However, the Declaration is not, in itself, a legally binding instrument although it represents a series of principles and rights that are reflective of human rights standards. The Government is aware of articles 5(b), 6, 12(1) and 17 of the Declaration. The “limitations” to the freedom of association as provided by Act 335 were established in line with article 10(1)(c) and 10(2)(c) of the Federal Constitution. These are the “limitations” as “determined by laws solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting just requirements of morality, public order and the general welfare in a democratic society”, as provided by article 17 of the Declaration and the requirements of morality, public order and general welfare. Therefore, Act 335 is in full compliance and is compatible with international norms and standards on the right to freedom of association.

1477. The ISA (Act 82) was promulgated to provide for the internal security of Malaysia, the prevention of subversion, the suppression of organized violence against persons and property in specified areas of Malaysia, and for matters incidental thereto. The Act contains sufficient safeguards against possible abuses which are further reinforced by provisions in other relevant and related legislation. Paragraphs 10, 12 and 13 of Opinions No. 10/2004 of the Working Group on Arbitrary Detention imply that the application of the ISA for incommunicado detention without trial constitutes a breach of international law. The Government strongly objects to this opinion as all ISA detainees are granted visitation rights to meet with family members and legal counsel. ISA detainees are also afforded the right in law to file for a writ of habeas corpus at any time and as many times as they wish, following detention. Section 365 of the Criminal Procedure Code (Act 593) stipulates that the High Court may, upon the application by the detained person, whenever it thinks fit, direct that any person who is alleged to be illegally or improperly detained in public or private custody within the limits of Malaysia, be set at liberty. The Government further highlights the role of the Advisory Board as provided under the Act, particularly in reviewing representations by ISA detainees. In brief, the Advisory Board comprises a Chairman and two members, all of whom are appointed by the Yang di-Pertuan Agong (the Supreme Ruler of Malaysia), by virtue of article 151(2) of the Federal Constitution. The Chairman of the Advisory Board shall be or have been, or be qualified to be, a judge of the Federal Court, the Court of Appeal or a High Court, or shall before Malaysia Day have been a judge of the Supreme Court. It is therefore clear that the ISA is in compliance and consonant with the UDHR, bearing

in mind that the exercise of the rights referred to under articles 9, 10 and 11 are subject to article 29(2) of the UDHR. The Government emphasizes that persons detained under the ISA are not held incommunicado, unlike in other jurisdictions.

1478. While Malaysia is not a State party to the ICCPR, it nonetheless adheres to fundamental precepts of it (see article 9(1)). The Government is further committed to related international norms, including the Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment. Finally, in arriving at the observations, conclusions and recommendations set forth in its Opinion No. 10/2004, the WGAD had arrived at and rendered the said opinion without the benefit of any response on the issue from the Government. That notwithstanding, the Government renews its commitment to continue cooperating with the Special Procedures of the UN Human Rights Council.

Observations

1479. The Special Rapporteur thanks the Government for its detailed responses to the communications transmitted. However, he would like to emphasize that any restriction sought to be justified on the ground of national security is not legitimate unless its genuine purpose and demonstrable effect is to protect a country's existence or its territorial integrity against the use of threat of force, or its capacity to respond to the use or threat of force, whether from an external source, such as a military threat, or an internal source, such as incitement to violent overthrow of the Government (as endorsed in the report E/CN.4/1996/39 of 1996). In addition, expression may be restricted as a threat to national security only if a Government can demonstrate that: (a) the expression is intended to incite imminent violence; (b) it is likely to incite such violence; and (c) there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence. The Special Rapporteur therefore requests the Government to provide further information regarding the above-mentioned elements when restrictions to the right to freedom of expression are imposed.

Mauritania

Appel urgent

1480. Le 8 avril 2009, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants, a envoyé un appel urgent sur la situation de M. **Boubacar Messaoud**, président de l'association SOS-Esclaves et membre de la Commission nationale des droits de l'homme de Mauritanie, ainsi que d'autres personnes ayant pris part à la marche pacifique du 2 avril 2009. M. Messaoud a fait l'objet d'une lettre d'allégation envoyée par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et l'ancienne Représentante spéciale du Secrétaire Général sur la situation des défenseurs des droits de l'homme le 5 décembre 2003. Nous n'avons pas reçu, à ce jour, de réponse du Gouvernement de Votre Excellence à cette communication. Selon les informations reçues :

1481. Le 2 avril 2009, M. Boubacar Messaoud aurait été agressé par un groupe de quatre policiers au cours d'une marche présentée comme pacifique et organisée par la Coordination des forces démocratiques, qui regroupe des partis politiques de l'opposition ainsi que des

organisations de la société civile, dont des organisations de défense des droits de l'homme. Cette marche avait pour but de dénoncer le coup d'Etat militaire du 6 août 2008. M. Messaoud aurait été mis à genoux et assommé par un coup de matraque porté à sa nuque. Une fois évanoui, les policiers auraient continué de le frapper et l'auraient trainé à terre en direction du coffre d'une voiture banalisée. Deux passantes auraient alors reconnu M. Messaoud et auraient crié son nom afin d'ameuter d'autres passants, faisant ainsi fuir les policiers. M. Messaoud se serait rendu le lendemain à l'hôpital pour passer un scanner.

1482. Plusieurs autres personnes, notamment des opposants politiques, auraient également été rouées de coups par la police au cours de cette marche.

1483. Des craintes ont été exprimées quant au fait que l'usage excessif de la force contre M. Messaoud et d'autres manifestants ayant pris part à la marche du 2 avril 2009 ait été lié à l'exercice pacifique de leur droit à la liberté d'opinion et d'expression.

Réponse du Gouvernement

1484. Le 27 avril 2009, le Gouvernement mauritanien a répondu à l'appel urgent du 8 avril 2009. Le Gouvernement informe que les allégations relatives à une agression dont M. Messaoud, qui prenait part à une manifestation non autorisée, aurait été victime, sont inexactes. M. Messaoud faisait partie de la masse d'individus qui a été sommée de quitter la voie publique comme le prévoient les lois et textes préservant l'ordre public et notamment l'article 101 du code pénal.

1485. L'accusation d'enlèvement de M. Messaoud est infondée. Il est constaté que celui-ci n'a pas été en contact avec les policiers qui ne le reconnaissent pas parmi le groupe. A ce jour, aucune plainte n'a été déposée par M. Messaoud ou en son nom pour agression ou enlèvement.

Observations

1486. Le Rapporteur spécial remercie le Gouvernement pour sa réponse, mais regrette, au moment de la finalisation du présent rapport, l'absence de réponse aux communications en date du 3 septembre 2008, 29 juillet 2008, 1^{er} juin 2007, 2 décembre 2004 et 5 décembre 2003. Il exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celle-ci, notamment en fournissant des informations précises sur les enquêtes menées afin de traduire en justice les auteurs des faits et les mesures de protection prises. Il considère les réponses à ses communications comme partie intégrante de la coopération des gouvernements avec son mandat.

Mexico

Llamamiento urgente

1487. El 20 de enero de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con el acoso y ataque del Sr. **Rubén Valencia Núñez**, integrante de Voces Oaxaqueñas Construyendo Autonomía y Libertad (VOCAL).

1488. VOCAL es parte de la del Consejo Estatal de la Asamblea Popular del Pueblo de Oaxaca (APPO) una organización sombrilla que encabezó las protestas que estallaron en el estado de Oaxaca en 2006 y 2007 para pedir la dimisión del gobernador del estado el quien acusan de corrupción y de actos de represión.

1489. Según la información recibida, el 8 de diciembre de 2008, el Sr. Rubén Valencia Núñez se ha pronunciado públicamente contra la policía estatal y municipal, después de un asalto policial que se habría llevado a cabo contra una casa en la que un grupo de jóvenes activistas habrían organizado actividades culturales y políticas. La policía habría utilizado porras y gas lacrimógeno para entrar por la fuerza en la casa.

1490. Según las informaciones recibidas, el 10 de enero de 2009, aproximadamente a las 23h00, cuando el Sr. Rubén Valencia Núñez caminaba por el centro de la ciudad de Oaxaca con un amigo, tres hombres desconocidos le habrían gritados insultos desde un automóvil. Uno de los hombres habría tratado de salir del auto, pero sus compañeros le persuadieron de que no lo hiciera, y el auto se habría marchado.

1491. Temiendo por su seguridad, el Sr. Rubén Valencia Núñez y su amigo habrían entrados en un café. Cinco minutos después, el hombre que habría tratado de salir del auto habría entrado en el café y habría apuñalado al Sr. Rubén Valencia Núñez con un cuchillo, hiriéndole en la cabeza y el cuello. En la lucha, un camarero habría recibido también una cuchilla en el cuello. El Sr. Rubén Valencia Núñez fue llevado al hospital, pero ya ha recibido el alta.

1492. En vista de lo aquí resumido, se expresó preocupación por la integridad física y psicológica del Sr. Rubén Valencia Núñez. Se expresó temor que el ataque contra el Sr. Rubén Valencia Núñez podría estar relacionado con sus actividades legítimas en la defensa de los derechos humanos como integrante de VOCAL, específicamente por su tarea en contra la corrupción estatal.

Llamamiento urgente

1493. El 20 de marzo de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con los actos de hostigamiento y las amenazas de muerte contra la Sra. **Lourdes Argelia Rodríguez Lucero**, defensora de derechos humanos, colaboradora del Centro Independiente de Noticias y familiar de defensor de derechos humanos, miembro del Centro de Derechos Humanos de la Montaña “Tlachinollan”.

1494. Lourdes Argelia Rodríguez Lucero, joven de 18 años, es estudiante de bachillerato en el Colegio de Ciencias y Humanidades plantel Sur, perteneciente a la Universidad Nacional Autónoma de México (UNAM), miembro del Centro Independiente de Noticias, egresada de la Escuela de Promotores Juveniles del Centro de Derechos Humanos “Fray Francisco De Vitoria O.P.” A.C y hermana de Prometeo Jorge Rodríguez Lucero (miembro del Centro de Derechos Humanos de la Montaña “Tlachinollan”).

1495. El Centro de Derechos Humanos de la Montaña “Tlachinollan” se encuentra actualmente tramitando varios casos de violaciones de derechos humanos. Uno de los más sonados fue el de

los Sres. Raúl Lucas Lucía y Manuel Ponce Rosas, defensores de los derechos humanos de la Organización para el Futuro de los Pueblos Mixtecos (OFPM) en Ayutla, Guerrero, detenidos desaparecidos el 13 de febrero del año en curso y posteriormente asesinados extrajudicialmente. Dichos defensores de derechos humanos fueron objeto de una comunicación de la Relatora Especial sobre la situación de los defensores de derechos humanos, que envió una carta el 10 de marzo del 2008.

1496. Según la información recibida, el 9 de marzo de 2009, la Sra. Rodríguez Lucero habría dirigido hacia la escuela, CCH Sur, caminando sobre Av. Canal de Chalco, cuando un hombre desconocido le habría abrazado y le habría dicho, ‘No voltees’ y les habrían seguido caminando. Al pensar que le habría asaltado, la Sra. Rodríguez Lucero habría bajado la mano hacia el bolsillo para mostrarle su dinero, pero el desconocido le habría inmovilizado la muñeca mientras le habría dicho: ‘No nos gusta el trabajo que está haciendo tu hermanito en Guerrero, dile que le pare porque nos vamos a desquitar contigo y tu cuñada’. El hombre habría salido corriendo hacia dentro de la colonia. La Sra. Rodríguez Lucero le habría descrito como un hombre de 1.70 aproximadamente, delgado, moreno, cabeza ancha y ojos medio rasgados, nariz recta. Vestía playera blanca, pantalón y chamarra de mezclilla; botas y corte tipo militar.”

1497. La Sra. Lourdes Argelia Rodríguez Lucero habría sido ya blanco de amenazas y actos de hostigamiento. El 3 de marzo y el día 26 de febrero de 2009 le habrían seguido hombres desconocidos en el curso de su día. El 3 de marzo, en la madrugada del 3 de marzo; a las 4h34 exactamente, le habría marcado tres veces desde un número de teléfono desconocido; y cuando la Sra. Rodríguez Lucero habría contestado, se habría colgado.

1498. Desde el mes de febrero de 2009, habría fallada la comunicación del teléfono de su domicilio al hablar con su hermano, el Sr. Prometeo Jorge Rodríguez Lucero que trabaja actualmente en el Centro de Derechos Humanos de la Montaña “Tlachinollan.” Él habría comentado que al hablar, habría salido la grabación que dice que el teléfono está fuera de servicio; sin embargo, los otros miembros de la casa sí pueden hablar por teléfono. El 8 de marzo, nuevamente se habría llamado del mismo número a las 02h48 y al contestar se habría colgado nuevamente.

1499. En visto de lo aquí resumido, se expresó temor que estos actos de hostigamiento, vigilancia y agresión contra la Sra. Lourdes Argelia Rodríguez Lucero podrían estar relacionados con las actividades de defensa de los derechos humanos de su hermano, el Sr. Prometeo Jorge Rodríguez Lucero. Se expresó preocupación por la integridad física y psicológica de la Sra. Lourdes Argelia Rodríguez Lucero y los miembros y familiares del Centro de Derechos Humanos de la Montaña “Tlachinollan.”

Respuesta del Gobierno

1500. En una carta con fecha de 29 de julio de 2009, el Gobierno respondió a la comunicación. La carta proporcionó antecedentes en relación con el caso y comunicó que la Sra. Lourdes Argelia Rodríguez Lucero hizo una denuncia en la Fiscalía Desconcentrada de Investigación de la Delegación de Iztapalapa, Distrito Federal (FDI) por lo que se integró la averiguación previa número FIZP/IZP8/T3/00715/09-03, por el delito de amenazas en contra de quien resulte responsable. Se señaló que el Estado mexicano estaba imposibilitado en aquel momento para

calificar los hechos referidos en las alegaciones vertidas en el llamamiento urgente debido a que la averiguación iniciada para investigar esos hechos continúa abierta para su perfeccionamiento.

1501. La Comisión Nacional de los Derechos Humanos informó que, el 20 de marzo de 2009, inició un expediente de queja 2009/1183, el cual se encuentra asignado para su trámite al Programa de Agravios a Periodistas y Defensores Civiles de Derechos Humanos.

1502. Se informó que, dentro de la averiguación previa, se han desahogado las siguientes diligencias:

- El 26 de marzo de 2009, se recibió la declaración de la denunciante Lourdes Argelia Rodríguez Lucero.
- El 29 de abril de 2009, se giró citatorio para la comparecencia de la denunciante con el fin de que ratificara su querrela, ampliara su declaración y aportara datos necesarios del agresor al perito en materia de retrato hablado. La diligencia no fue desahogado debido a la inasistencia de la agraviada.
- El 4 de junio de 2009, se giró nuevo citatorio a la denunciante y por segunda ocasión no atendió al llamado.
- Se giró oficio al Jefe de la Policía Judicial del DF, solicitándole realice una investigación minuciosa en relación a los hechos denunciados y resguarde la integridad física de Joven Rodríguez Lucero.

1503. Se solicitó a los Relatores Especiales interesados conminen a la Sra. Rodríguez Lucero a que ratifique su querrela ante la FDI para que con ello dicha Fiscalía podría investigar los hechos y en su caso imponer la sanción correspondiente a quien o quienes resulten responsables.

1504. Con la finalidad de atender y resolver la situación que supuestamente enfrenta la Sra. Rodríguez Lucero, la FDI solicitó la intervención de la Subprocuraduría de Atención a Víctimas del Delito y Servicios a la Comunidad de la PGJ DF, para que se le brinde las atenciones y servicios que requiera en su calidad de víctima del delito, y por otra parte, solicitó a la Jefe de la Policía Judicial del DF establezca comunicación con la denunciante a efecto de brindarle la protección que requiera.

1505. En relación con la situación de los defensores de derechos humanos del estado de Guerrero, se informó que, el 17 de enero de 2005, la Comisión Interamericana de Derecho Humanos solicitó al Estado mexicano la adopción de medidas cautelares para proteger la vida y la integridad personal de Obtilia Eugenio Manuel, Cuauhetémoc Rodríguez Ramírez (esposo), San Isabel y Kula Rodríguez Eugenio (hijas) y Andrea Eugenio Manuel (hermana).

1506. En una reunión de trabajo el 31 de enero de 2005, los beneficiarios acordaron en conjunto con las autoridades involucradas, las medidas y los mecanismos correspondientes para su implementación. Adicionalmente, los beneficiarios de las medidas cuentan con el acompañamiento de Brigadas Internacionales de Paz (PBI). Además, se informó que se realizaron 3 reuniones para el seguimiento de los acuerdos concertados entre las partes.

1507. El 6 de mayo de 2008, los representantes de los peticionarios enviaron un escrito a la CIDH informando sobre un supuesto incremento de las amenazas sufridas en contra de la Sra. Eugenio Manuel y sus familiares por la supuesta detención arbitraria en contra de los Sres. Manuel Cruz Victoriano, Orlando Manzanarez Lorenzo, Raúl Hernández Abundio, Natalio Ortega y Romualdo Santiago Enedina, integrantes de la Organización del Pueblo indígena Tlapaneco (OPIT), internos en el Centro Regional de Readaptación Social de Ayutla de los Libres, Guerrero (CERESO) y la emisión de órdenes de aprehensión en contra de otros integrantes de la OPIT.

1508. El 27 de junio de 2009, la CIDH determinó ampliar las medidas cautelares a favor de los 5 indígenas tlapanecos internos en el CERESO.

1509. El 18 de marzo de 2009, se ordenó la inmediata libertad de Manuel Cruz Victoriano, Orlando Manzanarez Lorenzo, Natalio Ortega Cruz y Romualdo Santiago Enedina.

1510. Con motivo de una denuncia presentada por la Sra. Eugenio Manuel en relación con actos de hostigamiento y amenazas en su contra, la CDDH Gro abrió un expediente de queja y el mismo día, el Ministerio Público inició una averiguación previa por el delito de amenazas en agravio de la Sra. Eugenio Manuel.

1511. Con la finalidad de atender y resolver la situación que enfrentan la Sra. Eugenio Manuel y los integrantes del Centro “Tlachinollan”, el 24 de marzo de 2009 la CDEDH Gro solicitó a la PGJ Gro aplicar una medida cautelar.

1512. El 26 de marzo de 2009, la medida cautelar fue aceptada por el PGJ Gro y solicitó al Ministerio Público agilizar las diligencias necesarias dentro de la averiguación previa con el objeto de evitar la impunidad, procurando la reparación del daño.

1513. El 9 de abril de 2009, la Corte Interamericana de Derechos Humanos (CoIDH) emitió una resolución mediante la cual ordenó al Estado mexicano la adopción de medidas provisionales en relación con las medidas solicitadas por la CIDH a favor de la Sra. Eugenio Manuel y familia, Inés Fernández Ortega y familias, 41 integrantes de la OPIT, 29 miembros del centro “Tlachinollan” y familiares de Raúl Lucas Lucia y Manuel Ponce Rosas.

1514. Se informó que, el Estado se ha abocado a explorar las mejores vías para la implementación de dichas medidas, para ello, se han realizado diversas reuniones entre las autoridades involucradas, representantes de los beneficiarios y los peticionarios de las medidas, en las que de manera concertada se acordaron las mejores alternativas para dar cumplimiento a la decisión de la Corte.

1515. Asimismo, se informó que el Estado informa de manera periódica las acciones y medidas adoptadas para salvaguardar la vida e integridad de las personas antes mencionadas, así como para investigar las amenazas, hostigamiento que refieren haber sufrido.

Llamamiento urgente

1516. El 25 de marzo de 2009 el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes, enviaron un llamamiento urgente señalando a la

atención urgente del Gobierno la información recibida en relación con el secuestro y tortura del Sr. **Marcelino Coache Verano** y las amenazas contra su hijo. El Sr. Marcelino Coache Verano es activista sindical y miembro de la Asamblea Popular del Pueblo de Oaxaca (APPO), una organización que promueve los derechos de los docentes en Oaxaca y lucha contra la corrupción.

1517. Según la información recibida, el 4 de marzo de 2009, tres hombres, uno de ellos vestido con un uniforme azul, habrían interceptado al Sr. Coache en la calle justo después de abandonar una reunión del sindicato. Los hombres lo detuvieron y le mostraron, durante un instante, una placa. Luego introdujeron al Sr. Coache en una furgoneta cercana, lo ataron y le pusieron una bolsa sobre la cabeza para que no pudiera ver a dónde lo llevaban. Al cabo de dos horas, entraron a un edificio y lo obligaron a quitarse la ropa. Sus captores lo interrogaron sobre sus finanzas y su familia, aunque no se pidió rescate por su liberación.

1518. Los hombres le propinaron puñetazos, lo golpearon repetidamente con la culata de un arma y lo quemaron con cigarrillos en los pezones y los genitales. Unas horas después, el Sr. Coache escuchó que un hombre entró a la habitación y dijo: “éste es uno de los revoltosos”. En respuesta, otro contestó: “entonces lo matamos”, y amartilló un arma. Después introdujo al Sr. Coache a un vehículo y se lo llevó. El Sr. Coache fue puesto en libertad en el municipio de Zaachila, a unos 30 km de la ciudad de Oaxaca, hacia las tres y media de la madrugada del 5 de marzo. Logró que un taxi lo llevara directamente a un hospital para recibir atención médica.

1519. Ese mismo día, el Sr. Coache convocó una conferencia de prensa en la que anunció que no presentaría una denuncia ante el ministerio público, porque creía que las autoridades del estado podrían estar implicadas en su secuestro. Una organización local de derechos humanos envió los detalles de su caso a la Comisión Interamericana de Derechos Humanos (CIDH) para solicitar medidas cautelares.

1520. El 20 de marzo, el hijo del Sr. Coache fue amenazado por un grupo de 12 hombres desconocidos cerca de su casa. Le gritaron por su apellido, “Coache.” El intentó escapar de los hombres pero lo siguieron en una furgoneta blanco de donde le gritaban: “Se lo advertimos a tu padre, ya sabemos dónde estas. A ti te estamos hablando...” Los hombres en la furgoneta le seguían hasta que llegó a un sitio de tiendas lleno de gente.

1521. El Sr. Coache ya había sufrido incidentes graves anteriormente, incluidas amenazas y agresiones físicas. En agosto de 2008, su hijo recibió una llamada telefónica en la que amenazaban la integridad física del Sr. Coache. En enero de 2008, un hombre trató de apuñalarlo en el abdomen cuando salía de su automóvil, pero sólo le causó una herida superficial. Además en agosto de 2007, un policía presuntamente lo golpeó con un arma y le apretó la cara contra el suelo mientras le decía: “ya párale de revoltoso”.

1522. En diciembre de 2006, Marcelino Coache fue detenido junto con otros dirigentes de la APPO y acusado de incendio provocado, sedición y resistencia a la detención. Fue absuelto tras pasar más de seis meses en prisión.

1523. En visto de lo aquí resumido se expresó preocupación por la integridad física y psicológica del Sr. Coache y su familia. Se expresó temor que el secuestro y maltrato sufridos por el Sr. Coache y las acciones de intimidación, persecución y violencia perpetradas contra él

podrían estar relacionadas con el trabajo de la APPO de promover los derechos de los docentes en Oaxaca y luchar contra la corrupción de las autoridades federales.

Llamamiento urgente

1524. El 3 de abril de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con actos de hostigamiento y amenazas contra integrantes del **Centro de Derechos Humanos La Montaña “Tlachinollan”** y las organizaciones indígenas a las que acompañan, como la **Organización del Pueblo Indígena Mephaa (OPIM)**, en particular su presidenta, la Sra. **Obtilia Eugenio** y la **Organización para el Futuro de los Pueblos Mixtecos (OFPM)** de Ayutla de los Libres en el Estado de Guerrero.

1525. El Centro Tlachinollan ofrece noticias y reportes de casos de abusos en esta región del Estado de Guerrero. La OPIM denuncia violaciones a los derechos humanos por parte de autoridades civiles y militares en el Municipio Ayutla de los Libres. El 13 de febrero de 2009, los Sres. Raúl Lucas y Manuel Ponce, presidente y secretario de la OPIM, fueron secuestrados, torturados y asesinados. Sus cuerpos fueron encontrados el día 20 de febrero.

1526. La OPIM y la Sra. Obtilia Eugenio han sido objeto de varias comunicaciones de la Relatora Especial sobre la situación de los defensores de derechos humanos, Sra. Margaret Sekaggya, quien envió una carta el 10 de marzo del 2009 sobre el asesinato de los defensores indígenas Sres. Raúl Lucas y Manuel Ponce. El 28 de febrero de 2008, 4 de mayo de 2005 y 16 de febrero de 2005, su predecesora envió una carta sobre amenazas de muerte contra la Sra. Obtilia Eugenio.

1527. Según la nueva información recibida, el 13 de febrero de 2009, el mismo día de la detención de los señores Raúl Lucas y Manuel Ponce, la Sra. Obtilia Eugenio habría recibido una llamada amenazante en las oficinas de su organización ubicadas en la cabecera municipal de Ayutla de los Libres, en la cual una voz masculina le habría dicho “Ahora sigues tú y sigues tú, sabemos que te vas a mover mañana, pero no creas que te vas a ir, [...], y no te vamos a dar tiempo de que te vayas”. Luego de esta llamada amenazante, la Sra. Obtilia Eugenio habría decidido ausentarse de la ciudad y no regresar hasta el 14 de marzo siguiente.

1528. El 14 de marzo de 2009, al llegar nuevamente a las instalaciones de su oficina, a las 15h40, habría recibido otra llamada en la cual una voz masculina le habría dicho “Bueno, ya estás de nuevo en el centro?” A lo que Obtilia habría solicitado que la persona se identificara y le dijera a quién quería dirigirse. La persona en el teléfono le habría contestado “Soy Patricio Ramírez, ya regresaste de nuevo, qué hay en Ayutla?” Y ante la insistencia de saber con quién quería hablar, la voz le habría respondido “contigo, tu eres Obtilia” por lo que ella asustada colgó el teléfono. A los pocos minutos nuevamente habría vuelto a recibir una llamada en la cual la misma voz le habría dicho “Soy Patricio y para que me conozcas quién soy yo, si no te dejas tranquila te va a pesar.”

1529. Ante estos hechos, la Sr. Obtilia habría decidido ir a su comunidad de origen, Barranca de Guadalupe, y verificar que su familia se encontraba bien. Ahí le habría informado que desde el 12 de marzo de 2009, una persona conocida como informante del Ejército, habría estado en una comunidad cercana a Barranca de Guadalupe que hospeda militares.

1530. El 17 de marzo, a las 15h00, la Sra. Obtilia Eugenio habría regresado a la ciudad de Ayutla, y se dirigió nuevamente a las oficinas de su organización. A los pocos minutos, a las 15h21, habría recibido un mensaje de texto amenazante en su teléfono celular y a las 16h20 habría recibido un segundo mensaje que habría dicho “Hola vieja [...] mando yo te damos quince días para que pienses si no te pasara igual que Raúl [Lucas Lucía]. Nosotros estamos protegido hacia el federal y al gobernador y procurador igual que los presidentes municipal están con nosotros [...] Tú te crees que eres muy famosa a nivel internacional dirán que no te atraviesa la bala crees te protege de ser defensora de derecho humano.” A las 17h55 la Sra. Obtilia Eugenio habría recibido un tercer mensaje amenazando al centro Tlachinollan.

1531. El 20 de marzo, cuando la señora Obtilia se encontraba en su domicilio preparándose para salir de viaje a la ciudad de Chilpancingo en compañía de miembros de la organización Tlachinollan, recibió, a las 12h51 otro mensaje que habría dicho “Sabemo [sic.] cuál es tu camino [...] ya sabemos que ahora saldrás de tu casa que tienes miedo [...]” Una vez que los integrantes del CDH Tlachinollan habrían recogido a Obtilia y viajado en una camioneta por la carretera Ayutla-Chilpancingo, habrían sido seguidos de manera intimidatoria por tres desconocidos. Cuando cruzaron por la comunidad de Tecoaapa habrían escuchados detonaciones de arma de fuego, al parecer hechas al aire.

1532. Además se informó que la madre del Coordinador Jurídico de Tlachinollan habría sido amenazada que si su hijo volvía a presentarse en la comunidad de Ayutla, sería asesinado. Asimismo, cuando el equipo de abogados se presentó en los Juzgados ubicados en la ciudad de Ayutla (debido a la representación legal de cinco integrantes de la OPIM) habrían notado una constante vigilancia por parte de automóviles sin placas y de sujetos vestidos de civil. Ante el clima de hostigamiento, la organización habría decidido cerrar temporalmente las oficinas que tienen en esa comunidad.

1533. En vista de lo aquí resumido, se expresó temor que las amenazas contra los integrantes del Centro de Derechos Humanos La Montaña “Tlachinollan” y las organizaciones indígenas a las que acompañan, como la Organización del Pueblo Indígena Mephaa (OPIM), en particular la Sra. Obtilia Eugenio, podrían estar relacionadas con su trabajo legítimo en la defensa de los derechos humanos, específicamente de los indígenas del Estado de Guerrero. También se expresó preocupación que los integrantes de la OPIM han sido amenazados durante varios años sin que se haya procesado o condenado a los responsables de dichas amenazas. Se expresó preocupación por la seguridad física y psicológica de los defensores de derechos humanos en el Estado de Guerrero.

Respuesta del Gobierno

1534. En una carta con fecha 3 de julio de 2009, el Gobierno de México respondió a la comunicación. Según dicha carta, el 17 de enero de 2005, la Comisión Interamericana de Derechos Humanos solicitó al Estado mexicano la adopción de medidas cautelares para proteger

la vida y la integridad personal de Obtilia Eugenio Manuel, su esposo, Cuauhtémoc Rodríguez Ramírez, su hija Kuala Rodríguez Eugenio y su hermana, Andrea Eugenio Manuel.

1535. Se informó que, con el fin de acordar de manera conjunta con los peticionarios las medidas que adoptarían, el 31 de enero de 2005 se celebró la primera reunión de trabajo con la participación de las autoridades involucradas, los beneficiarios y sus representantes.

1536. Se comunicó que los beneficiarios acordaron en conjunto con las autoridades involucradas, las medidas y los mecanismos correspondientes para su implementación, a saber:

- Sistema de luces sensoriales en el exterior del domicilio de Obtilia Eugenio Manuel, así como un interfón con monitor.
- Rondines en la casa de Obtilia Eugenio Manuel, por parte de elementos de la Secretaría de Seguridad Pública Federal y la Secretaría de Seguridad Pública del estado de Guerrero.

Investigación por parte de la Procuraduría General de Justicia del estado de Guerrero de los hechos denunciados.

1537. Asimismo, los beneficiarios de las medidas cuentan con el acompañamiento de Brigadas Internacionales de Paz (PBI).

1538. Se comunicó también que, el 6 de mayo de 2008, los representantes de los peticionarios enviaron un escrito a la CIDH informando sobre un supuesto incremento de las amenazas sufridas en contra de la Sra. Eugenio Manuel y sus familiares.

1539. En relación con los hechos referidos en las alegaciones vertidas en el llamamiento urgente, se informó que existe una denuncia presentada por la Sra. Eugenio Manuel y por representantes del Centro Tlachinollan ante la Comisión de Defensa de los Derechos Humanos del Estado de Guerrero (CDDH Gro) quienes a su parecer, han sido víctima de amenazas, actos de hostigamiento y persecuciones por sujetos desconocidos entre los meses de febrero y marzo de 2009.

1540. Asimismo, se informó que, el 20 de marzo de 2009, la CDDH Gro abrió un expediente de queja y en atención a la gravedad de los supuestos hechos, los hizo del conocimiento al Ministerio Público adscrito a la CDDH Gro. Ese mismo día, Ministerio Público inició una averiguación previa por el delito de amenazas en agravio de la Sra. Eugenio Manuel.

1541. Se comunicó que la queja y la averiguación previa continúan en integración, por lo que el gobierno mexicano estaba imposibilitado en el momento en el que se envió la carta para calificar los hechos referidos en las alegaciones vertidas en el llamamiento urgente.

1542. Dentro de la averiguación previa integrada en agravio de la Sra. Eugenio Manuel se han desahogado las siguientes diligencias:

- El 20 de abril de 2009, la Sra. Eugenio Manuel ratificó su escrito de querrela antes el Ministerio Público adscrito a la CDDH Gro.

- Fe ministerial del teléfono celular propiedad de la Sra. Eugenio Manuel.
- Solicitud dirigida al Director del Centro de la Secretaría de Comunicaciones y Transportes del estado de Guerrero para que proporcione la siguiente información: domicilio de la Sra. Eugenio Manuel, propietaria del teléfono celular, registros de llamadas y de mensajes del teléfono móvil propiedad de la Sra. Eugenio Manuel, realizadas el 17 de marzo de 2009 a la fecha, antecedentes de propiedad del teléfono móvil que incluya el nombre y domicilio de otros usuarios y memorias utilizadas.
- Solicitud dirigida al Director General de Recaudación del estado de Guerrero para que proporcione el nombre y domicilio del propietario del vehículo que supuestamente siguió a la Sra. Eugenio Manuel y a los integrantes del Centro Tlachinollan, cuando se dirigían a Chilpancingo, Guerrero.
- Solicitud dirigida al Director General de la Policía Ministerial de la PGJ Gro, para que policías ministeriales realicen la búsqueda y aseguramiento del vehículo.
- Escrito de 7 de abril de 2009 de la Coordinadora del Área Jurídica del Centro de Derechos Humanos de la Montaña “Tlachinollan” justificando la inasistencia de la Sra. Eugenio Manuel.
- Ampliación de declaración de la Sra. Eugenio Manuel de 16 de abril de 2009, asistida por una perito psicóloga y de un representante del Alto Comisionado de las Naciones Unidas en México. La diligencia fue suspendida a solicitud de la agraviada al argumentar cuestiones de salud.

1543. Se señaló que, con la finalidad de atender y resolver la situación que enfrentan la Sra. Eugenio Manuel y los integrantes del Centro Tlachinollan, el 24 de marzo de 2009 la CDEDH Gro solicitó a la PGJ Gro aplicar la siguiente medida cautelar: “Única- Atendiendo al principio de equidad y justicia, se le solicita actuar sin dilación alguna y girar sus instrucciones a quien corresponda, a efecto de que se agilice y se continúe con la integración de las diligencias necesarias dentro de la averiguación previa GROISCIO33/2009, con el objeto de esclarecer los hechos, y se ejerciten las acciones legales ante el juez correspondiente, para evitar la impunidad, procurando la reparación del daño, como medidas para hacer efectivo el derecho fundamental de acceso a la justicia de la C. Otilia Eugenio Manuel.”

1544. El 9 de abril de 2009, la CIDH emitió una resolución mediante la cual ordenó al Estado mexicano la adopción de medidas provisionales en relación con las medidas solicitadas por la CIDH a favor de la Sra. Eugenio Manuel y familia, 29 miembros de Tlachinollan y otros.

1545. El 16 de abril de 2009, se llevó a cabo la primera reunión entre los beneficiarios de las medidas y las autoridades encargadas de la implementación de las mismas. Se acordó que el Estado convocaría a una segunda reunión para dar respuesta puntual a las propuestas de medidas de protección que los beneficiarios presentaron por escrito durante la citada reunión.

1546. Para el otorgamiento de las medidas de protección, el Estado se ha abocado a explorar las mejores vías para la implementación de dichas medidas, para ello, se han realizado diversas reuniones entre las autoridades involucradas, representantes de los beneficiarios y los peticionarios de las medidas, en las que de manera concertada se acordaron las mejores alternativas para dar cumplimiento a la decisión de la Corte.

Llamamiento urgente

1547. El 24 de abril de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, el Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, el Relator Especial sobre la independencia de magistrados y abogados y el Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con la información siguiente.

1548. De conformidad con las informaciones recibidas, el 7 de abril de 2009, cinco hombres fueron arrestados en Tuxtla Gutiérrez, capital del Estado de Chiapas, tras organizar una protesta ante la prisión local donde se encuentran reclusos familiares suyos, quienes pertenecen a una organización de granjeros conocida como **MOCRI-CNPA-MN**. Tras su arresto, estas cinco personas permanecieron reclusas en régimen de incomunicación durante dos días y fueron trasladadas luego a un hotel en desuso del Municipio de Chiapas de Corzo llamado “Quinta Pitiquito”, que la Procuraduría General de Chiapas utiliza como centro de detención.

1549. Se informó que uno de los detenidos, el Sr. **Erick Bautista Gómez**, recibió repetidos golpes de puño en el estómago, bofetadas y tiradas de cabello. Fue amenazado que a su hermana le sucedería “algo desagradable” si él no colaboraba.

1550. Se informó asimismo que el 14 de abril de 2009, seis hombres de la comunidad indígena Tzeltal de San Sebastián Bachajón, Municipio de Chilón, fueron detenidos mientras realizaban algunas compras en la localidad de Ocosingo. Estas seis personas fueron también conducidas a la “Quinta Pitiquito”. Se informó que habrían sido torturados por los policías que les detuvieron, y tienen marcas visibles de golpes. Una vez detenidos, habrían sido obligados a firmar declaraciones que no comprendían, pues su conocimiento del castellano es limitado. Pese a que estaba presente un intérprete, éste no hablaba tzeltal.

1551. Se informó por último que ninguna de estas once personas ha sido formalmente acusada y que permanecen detenidos sin cargos en un centro de detención no oficial. Tienen un acceso restringido a abogados y familiares.

Respuesta del Gobierno

1552. En una carta fechada el primero de septiembre de 2009, el Gobierno de México respondió a la comunicación. Según la carta, los hechos presentados en la comunicación fueron parcialmente ciertos.

1553. De acuerdo con la información proporcionada por la Fiscalía Especial, los Sres. Eric Bautista Gómez, Pedro López Gómez, Genaro Gómez Gómez, Ramiro Hernández Gñomez, Flemón Ruiz Sánchez y Marden Ruiz Gómez, efectivamente fueron detenidos el 7 de abril del

2009, por elementos de la Policía Ministerial de la PGJ Chis con la finalidad de que rindieron su declaración ministerial en relación con el asesinato de la Sra. Martha Gómez Pérez y un ataque contra los Sres Manolo Molina Navarro, Esteban López García y Francisco Oseguera Gutiérrez.

1554. Se informó que la detención obedeció a la ejecución de una orden de búsqueda, localización y presentación del 23 de febrero de 2009. De manera inmediata fueron puestos a disposición de la autoridad ministerial por su probable participación en la comisión de los delitos de homicidio calificado y lesiones calificadas.

1555. Se informó que, debido a que el Fiscal Especial requería de mayores elementos para comprobar la presunta responsabilidad de los inculcados y por considerar que existía el temor fundado de que se ausentaran o se ocultaran antes de que las investigaciones concluyeran, solicitó al Juez especializado en medidas cautelares del estado de Chiapas obsequiara la medida precautoria de arraigo, misma que fue concedida por un término de 20 días naturales en la “Quinta Pitiquitos” ubicada en la carretera Tuxtla, Chapa de Corzo, Chiapas.

1556. Asimismo se informó que los inculcados fueron visitados por sus familiares y en todo momento estuvieron acompañados de un defensor social adscrito al Tribunal del Justicia del estado, permitiéndose-les tener acceso a la averiguación previa antes de que rindieran su declaración ministerial, así como mantener de manera personal y privada una entrevista con el abogado defensor, asegurando una defensa adecuada a sus intereses.

1557. Según la carta del Gobierno, el 7 de abril se emitieron los certificados de los exámenes médicos practicados a los seis hombres detenidos por un médico legista de la Dirección de Servicios de Técnica Forense y Criminalística de la PGJ Chis.

1558. La carta proporcionó información en relación con las investigaciones iniciadas en relación con el asesinato de la Sra. Martha Gómez Pérez y se informó que, después de varias días de investigaciones, el 30 de abril de 2009, el Fiscalía Especial solicitó el levantamiento del arraigo de todos los inculpables con la excepción del Sr. Bautista Gómez. Los otros cinco detenidos fueron liberados. La Fiscalía ejerció acción penal en contra de Eric Bautista Gómez por su probable responsabilidad en el homicidio. El inculpable fue trasladado a las instalaciones del Centro de Readaptación Social no. 14 “El Amate”, quedando sujeto al proceso penal 277/2009 en el Juzgado Primero del Ramo Penal del Distrito Judicial de Tuxtla Gutiérrez, Chiapas. El proceso penal actualmente se encuentra en etapa de instrucción.

1559. En relación con el segundo grupo de inculcados, se informó que el 13 de abril 2009, el Sr. Jerónimo Gómez Saragos fue detenido por robo. Se informó que al hacerle una revisión corporal fue encontrado un teléfono celular, propiedad de otra persona.

1560. Se informó que el Fiscal Especial solicitó la intervención de un perito médico legista para que dictaminara la integridad física del Sr. Gómez Saragos. Asimismo, se informó que le fue tomada su declaración ministerial con la asistencia del defensor social y un traductor en lenguas tzolizil y tzeltal.

1561. Según la carta, de los elementos contenidos en la declaración del Sr. Gómez Saragos, el 14 de abril de 2009, 5 otros hombres fueron detenidos en el municipio de Chilón, Chiapas en relación con una investigación por el delito de robo de una cámara fotográfica y de un teléfono

celular. El 17 y 19 de abril de 2009, elementos de la Policía Ministerial pusieron a disposición del Fiscal Especial 2 otros hombres inculcados con motivo de la ejecución de una orden de búsqueda, localización y presentación fundada y motivada.

1562. Se comunicó que la detención obedeció a la ejecución de una orden de búsqueda, localización y presentación y que, de manera inmediata, los detenidos fueron puestos a disposición de la autoridad ministerial por su probable participación en la comisión de los delitos de robo con violencia y delincuencia organizada. Se añadió que les fue tomada su declaración con la asistencia del defensor social y un traductor en lenguas tzolizil y tzeltal.

1563. El 18 de abril de 2009, el Cuarto Visitador de la Comisión Nacional de los Derechos Humanos (CNDH), acompañado de un médico de la citada institución, se trasladaron a “Quinta Pitiquitos” y visitaron a los hombres detenidos citados para documentar su detención, ofrecerles asesoría, recibir su queja y certificar su estado de salud. Los hombres fueron examinados médicamente y entrevistados en privado, y al final de la entrevista manifestaron que no era su deseo presentar una queja. Los certificados médicos concluyen que los hombres se encontraron sanos y sin huellas de lesiones externas recientes visibles.

1564. El 20 de abril de 2009, el Fiscal Especial solicitó y obtuvo del juez especializado en medidas cautelares del estado de Chiapas una orden de arraigo en contra de todos los inculcados, en razón de que se presumía fundamente su participación en delitos de robo con violencia y delincuencia organizada. El juez concedió la solicitud por el término de 40 días en “Quinta Pitiquitos”.

1565. Los inculcados fueron visitados por sus familiares y en todo momento estuvieron acompañados de un defensor social adscrito al Tribunal de Justicia del estado. Asimismo se les hizo de su conocimiento de sus garantías judiciales como lo es el de tener conocimiento de los delitos que se les acusaban, y otras provisiones de las garantías procesales.

1566. Se informó que, el 30 de abril de 2009, el Fiscal Especial ejerció acción penal en contra de los ocho hombres detenidos por su probable responsabilidad de los delitos citados. Los inculcados fueron trasladados a las instalaciones del Centro de Readaptación Social número 14 “El Amate”, quedando sujetos al proceso penal en el Juzgado Primero del Ramo Penal del Distrito Judicial de Tuxtla Gutiérrez, Chiapas. El proceso penal actualmente se encuentra en etapa de instrucción.

Respuesta del Gobierno

1567. En una carta fechada el 20 de noviembre de 2009 la Misión Permanente de México respondió al llamamiento urgente. Según la carta, la Procuraduría General de la República (PGR) confirmó que en el mes de abril de 2009, el Sr. Fernando Ruiz Canales presentó una denuncia ante el ministerio público por el delito de amenazas de actos de hostigamiento. Se explicó que la investigación continúa abierta para su perfeccionamiento, por lo que el gobierno mexicano está imposibilitado en este momento para calificar los hechos referidos en las alegaciones vertidas en el llamamiento urgente.

1568. La Comisión Nacional de los Derechos Humanos informó no haber recibido queja o denuncia alguna por amenazas y actos de hostigamiento en contra de los señores Ruiz Canales,

Ramírez Hurtado y Olmedo García por su labor en la defensa de los derechos humanos, ni por otro tipo de actividades.

1569. Se informó que, en relación con investigaciones y diligencias judiciales iniciadas en relación con el caso, se han desahogado las siguientes diligencias:

- Se giró comunicaciones a los señores Ruiz Canales, Ramírez Hurtado y Olmedo García requiriendo su presencia para que amplíen su denuncia.
- Informe de investigación rendido por la Policía Ministerial.

1570. Asimismo, se informó que la averiguación previa aún se encuentra en la etapa de análisis para emitir la determinación que conforme a derecho proceda.

1571. En relación con medidas de protección adoptadas, el Estado ha llevado a cabo una investigación exhaustiva respecto de los hechos denunciados, por lo consiguiente, se espera que la autoridad continúe recabando las pruebas necesarias, incluidas las que presenten los agraviados para el pronto esclarecimiento de los hechos. Asimismo, se comunicó que el Ministerio Público Federal mantiene una comunicación constante con los señores Ruiz Canales, Ramírez Hurtado y Olmedo García para brindarles las atenciones y servicios que requieran en su calidad de víctimas del delito.

Carta de alegaciones

1572. El 15 de mayo de 2009, la Relatora Especial sobre la situación de los defensores de los derechos humanos, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, enviaron una carta de alegaciones señalando a la atención urgente del Gobierno la información recibida en relación con el asesinato del Sr. **Carlos Ortega Samper**, abogado y periodista del periódico El Tiempo de Durango, de la ciudad de Durango. El Sr. Ortega era conocido por sus investigaciones relacionadas con la corrupción en el gobierno local.

1573. Según la información recibida, el 3 de mayo de 2009, aproximadamente a las 17:00, el Sr. Ortega habría sido asesinado mientras conducía hacia su casa ubicada en Santa María El Oro, en el Estado de Durango. Según se informa, dos camionetas interceptaron al Sr. Ortega Samper y después de una discusión acalorada, cuatro individuos no identificados le habrían dado tres balazos en la cabeza con una pistola calibre 40.

1574. El 2 de mayo, el Sr. Ortega habría publicado un artículo en el que habría alegado que tres funcionarios del gobierno local le habrían amenazado debido a la publicación de un artículo con fecha del 28 de abril, en el que había criticado la mala calidad de un matadero local. En el artículo publicado el 2 de mayo, el Sr. Ortega habría indicado que también realizaba investigaciones relacionadas con la corrupción de un miembro de la policía local y responsabilizaba a los tres funcionarios del gobierno local de cualquier agresión en su contra o en contra de su familia.

1575. En visto de lo aquí resumido se expresó temor que la muerte del Sr. Carlos Ortega Samper podría estar relacionada con su trabajo legítimo en defensa de la libertad de expresión. Asimismo, se expresó preocupación por la integridad física y psicológica de los periodistas que investigan la corrupción en México.

Llamamiento urgente

1576. El 3 de junio de 2009, la Relatora Especial sobre la situación de los defensores de los derechos humanos, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con las amenazas de muerte y los actos de vigilancia en contra la Sra. **Lydia Cacho Ribeiro**. La Sra. Cacho Ribeiro es directora y fundadora del Centro Integral de Atención a las Mujeres (CIAM) en Cancún, Estado de Quintana Roo.

1577. El CIAM trabaja a favor de víctimas de violencia sexual y víctimas de tráfico de personas. Ella es autora del libro “Los demonios del Edén: el poder detrás de la pornografía infantil,” en el que denunció actos de abuso sexual de niños y niñas por parte de un conocido empresario. Se agrega que desde la publicación de su libro, la Sra. Ribeiro habría sido víctima de un atentado de muerte, de detención arbitraria, acoso, tortura y extradición ilegal a otro estado.

1578. La Sra. Cacho Ribeiro ha sido objeto de varias comunicaciones emitidas por titulares de mandato; de llamamientos urgentes emitidos el 23 de febrero y el 18 de julio de 2005 por el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía, la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, la antigua Representante Especial del Secretario-General para los defensores de los derechos humanos, y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión; de un llamamiento urgente emitido por éstos dos últimos, el 29 de diciembre de 2005; de un llamamiento urgente emitido el 24 de mayo de 2007 por el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía, la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, y la antigua Representante Especial del Secretario-General para los defensores de los derechos humanos y de una carta de alegación emitida el 24 de junio de 2008 por Relatora Especial sobre la situación de los defensores de los derechos humanos a de Relatora Especial sobre la violencia contra la mujer con inclusión de sus causas y consecuencias. Los Relatores Especiales agradecieron las respuestas recibidas a estas comunicaciones de parte del Gobierno de Su Excelencia.

1579. Según la información recibida, desde el 12 de mayo de 2009, varios testigos habrían visto a un hombre armado vigilando y tomando fotos desde un vehículo, del hogar y del automóvil de la Sra. Cacho Ribeiro. El 22 de mayo de 2009, un vehículo se habría aparcado frente a la casa de la Sra. Cacho Ribeiro y dos hombres no identificados procedieron a filmar su apartamento desde el coche. Uno de los hombres habría bajado del vehículo y varios testigos vieron que portaba un arma en su cinturón. El 15 de mayo, dos personas se estacionaron frente al hogar de la Sra. Cacho Ribeiro durante dos horas. El 14 de mayo, un hombre armado habría sido visto por un vecino frente al piso de la Sra. Ribeiro.

1580. El 18 de mayo de 2009, un coche se habría aparcado frente a las oficinas del CIAM en Cancún. Cuando un dirigente de la organización salió del área conduciendo una camioneta perteneciente a la organización, el otro vehículo lo siguió hasta que el miembro del CIAM logró perderse.

1581. Desde el 3 de febrero de 2009, la Sra. Cacho Ribeiro habría recibido amenazas de muerte en su blog, incluso un mensaje recibido el 19 de mayo de 2009 que decía, “Mi estimada Lidia Cacho prepárate que pronto aparecerás degollada; tu cabeza tan bonita afuera de tu departamento a ver si eres tan valiente [sic].”

1582. En visto de lo aquí resumido se expresó temor que la vigilancia de la Sra. Ribeiro y las amenazas en su contra podrían estar relacionadas con sus actividades en defensa de los derechos humanos, en particular su defensa de los derechos de las víctimas de la violencia y la explotación sexual en México, y se esperó que los responsables de estos actos no gocen de impunidad. Asimismo, se reiteró la preocupación expresada en comunicaciones anteriores por la seguridad e integridad física de la Sra. Cacho Ribeiro.

Llamamiento urgente

1583. El 7 de septiembre de 2009, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con el intento de asesinato del Sr. **Salomón Monárrez Meraz**.

1584. El Sr. Monárrez Meraz es el secretario de la organización no gubernamental (ONG) Frente Cívico Sinaloense en Culiacán, Sinaloa.

1585. El Frente Cívico Sinaloense ha denunciado violaciones a los derechos humanos cometidos por elementos castrenses en el contexto de la lucha contra organizaciones de delincuencia organizada.

1586. Según las informaciones recibidas, el 31 de agosto de 2009, aproximadamente a las 6:30 horas de la tarde, un grupo de personas no identificadas habrían entrado por la fuerza a la casa del Sr. Monárrez Meraz en la colonia de Miguel Hidalgo de Culiacán, en Sinaloa, con la intención de asesinarlo. Los agresores habrían disparado tres veces contra el Sr. Monárrez Meraz antes de huir y no habrían robado nada de la casa. Luego de este incidente, el Sr. Monárrez Meraz habría sido trasladado a una clínica privada. Su estado de salud continúa delicado.

1587. No era la primera vez que un integrante del Frente Cívico Sinaloense es víctima de agresiones. En septiembre de 2007, el Sr. Ricardo Murillo Monge, co-fundador del Frente Cívico Sinaloense, habría sido asesinado.

1588. Se expresó temor que el intento de asesinato del Sr. Monárrez Meraz podría estar relacionado con sus actividades en defensa de los derechos humanos. Además, se expresó una profunda preocupación por la integridad psicológica y física del Sr. Monárrez Meraz y de los otros miembros del Frente Cívico Sinaloense.

Llamamiento urgente

1589. El 8 de septiembre de 2009, la Relatora Especial sobre la situación de los defensores de los derechos humanos, junto con el Presidente del Grupo de Trabajo sobre las desapariciones forzadas o involuntarias y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con los actos de hostigamiento, vigilancia, amenaza y descalificación que habrían tenido lugar contra integrantes del **Centro de Derechos Humanos Fray Bartolomé de las Casas** debido a su trabajo en defensa y promoción de los derechos humanos, incluyendo desapariciones forzadas.

1590. De acuerdo con la información recibida, a partir del mes de junio de 2009, los miembros del Centro de Derechos Humanos Fray Bartolomé de las Casas habrían sido objeto de una serie de actos de hostigamiento, vigilancia, amenaza y descalificación; en particular, su Presidente, Sr. Samuel Ruiz García, y su Director, Sr. Diego Cadenas Gordillo.

1591. En esta dirección, se informó que, los días 14, 15 y 16 de junio de 2009, algunos miembros del Centro habrían sido seguidos, fotografiados y filmados por seis personas que se trasladaban en tres automóviles sin placas de identificación: un Jeep negro, un Chevy blanco, y una camioneta Ford Ranger de color gris. Del mismo modo, el 17 de agosto de 2009, durante el regreso de la visita del Representante de la Oficina de la Alta Comisionada de las Naciones Unidas para los Derechos Humanos en México al campamento de desplazados de Acteal, algunos integrantes del Centro habrían notado que estaban siendo seguidos por un automóvil Ford Fiesta sin placa que detenía su marcha cuando lo hacía el vehículo que ellos conducían.

1592. Se informó además que, los días 10 y 11 de agosto, durante la manifestación pública que tuvo lugar en la ciudad de San Cristóbal de Las Casas en repudio del fallo de la Suprema Corte de Justicia de la Nación por la liberación de personas señaladas por los sobrevivientes de la Masacre de Acteal como paramilitares, una persona habría estado tomando fotografías y haciendo preguntas sobre la organización del evento y por los integrantes del Centro. Se indicó que, tras ser cuestionado, esta persona habría reconocido pertenecer al ejército de México.

1593. Asimismo, se informó que, durante los meses de julio y agosto, habrían aumentado las descalificaciones contra el Centro y sus integrantes a través de distintos medios de comunicación. Estas descalificaciones habrían sido efectuadas por reporteros vinculados a funcionarios públicos municipales, estatales y federales, o a través de espacios contratados por la administración pública, y utilizando medios de comunicación que serían propiedad del Estado.

1594. En este contexto, se expresó temor que estos actos podrían estar ligados al trabajo de los miembros del Centro en su defensa de los derechos humanos en Chiapas y por su integridad física y psicológica.

Respuesta del Gobierno

1595. En una carta fechada el 3 de noviembre de 2009 el Gobierno respondió al llamamiento urgente. Según dicha carta, el Gobierno de México no estaba en posibilidad de determinar la exactitud y veracidad de los hechos presentados en el llamamiento urgente toda vez que la Procuraduría General de Justicia del estado de Chiapas (PGJ Chi) después de haber hecho una

búsqueda en los libros del Gobierno de la agencia del Ministerio Público, no encontró ningún registro o averiguación previa relacionados con los hechos.

1596. No obstante, se informó que, el 17 de julio de 2009, PGJ Chi realizó un oficio de averiguación previa dando a conocer si los Sres. Cadenas Gordillo, Ruiz García y Armando Gómez fueron objeto de hechos delictivos. De igual forma, el 18 de junio de 2009, la Fiscalía Especializada en protección de los organismos no gubernamentales para la Defensa de los Derechos Humanos de la PGJ Chi, inició un acta administrativa para investigar los supuestos actos de hostigamiento.

1597. Se informó que el 17 de julio de 2009, la Comisión de Derechos Humanos de Chiapas abrió un expediente de queja por supuestos actos de hostigamiento con motivo de una nota periodística publicada en el diario local.

1598. Se informó que, dentro de las diligencias practicadas, el 18 de julio de 2009 requirieron presentar denuncia de los hechos a los Sres. Cadenas Gordillo e integrantes del Centro de Derechos Humanos.

1599. En relación con las medidas de protección adoptadas, el 19 de julio de 2009, la Fiscalía Especializada en la protección de organismos no gubernamentales para la Defensa de los Derechos Humanos ofreció a los Sres. Diego Cadenas Gordillo, Samuel Ruiz García y Jorge Armando Gómez, implementar medidas de protección policíacas, instalación de cámaras de vigilancia en la organización civil donde laboran y apoyo psicológico, además que les exhortaba para que presentaran denuncia o querrela por actos de hostigamiento. Sin embargo, se informó que no ha habido una respuesta de colaboración por parte del Sr. Cadenas Gordillo sobre el ofrecimiento de las medidas de protección.

1600. Asimismo, se comunicó que, el 4 de septiembre de 2009, representantes del gobierno federal realizaron una visita de trabajo al estado de Chiapas con el propósito de celebrar reuniones de trabajo con representantes del gobierno de ese estado y del Centro de Derechos Humanos Fray Bartolomé de las Casas. Se informó que el Sr. Cadenas Gordillo manifestó que los actos de hostigamiento en su contra nunca existieron, que todo fue un malentendido y que la situación ya fue aclarada, pues la persona que lo hostigaba se encuentra enferma de sus facultades mentales. No obstante, las autoridades reiteraron el ofrecimiento de implementar medidas de protección a favor de las víctimas mencionadas además de exhortarlo a que presente su denuncia para que la Fiscalía Especializada pueda investigar los hechos.

Llamamiento urgente

1601. El 9 de septiembre de 2009, la Relatora Especial sobre la situación de los defensores de los derechos humanos, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y el Relator especial sobre los derechos humanos de los migrantes enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con las amenazas contra el padre **Alejandro Solalinde Guerra**, el Sr. **David Alvarez Vargas**, la Sra. **Areli Palomo Contreras** y otros miembros del Albergue del Migrante Hermanos en el Camino.

1602. El padre Solalinde Guerra es director del Albergue del Migrante Hermanos en el Camino de la Esperanza y Coordinador de la Zona Sur de la Dimensión Pastoral de la Movilidad Humana de la Conferencia Episcopal Mexicana. El Sr. Alvarez Vargas es asistente en el mismo Albergue del Migrante. La Sra. Palomo Contreras es operadora del Registro Nacional de Agresiones a Migrantes y ayuda en el Albergue del Migrante Hermanos en el Camino de la Esperanza. El Albergue del Migrante Hermanos en el Camino brinda ayuda humanitaria a personas migrantes extranjeras que se ven obligadas a cruzar por México con el fin de llegar a los Estados Unidos de América. Además, el padre Solalinde Guerra ha denunciado públicamente en varias ocasiones las violaciones de derechos humanos presuntamente cometidas por miembros de la policía y de las fuerzas de seguridad en contra de los migrantes en México.

1603. Con fecha del 7 de julio de 2008, la Relatora sobre la situación de los defensores de derechos humanos y el Relator sobre los derechos de las personas migrantes emitieron un llamamiento urgente al Gobierno Mexicano en relación con las agresiones en contra del padre Alejandro Solalinde Guerra.

1604. Según las informaciones recibidas, el 22 de julio de 2009, dos hombres no identificados, supuestamente pertenecientes a una banda de la delincuencia organizada denominada “Los Zetas”, habrían allanado el Albergue del Migrante buscando a un grupo de migrantes que recibía ayuda del Albergue con la intención de secuestrarlos. Sin embargo los migrantes se habrían escondido.

1605. El 21 de julio, cuatro hombres armados con pistolas habrían entrado por la fuerza al Albergue nuevamente buscando a otro grupo de migrantes. Sin embargo, este grupo también habría logrado esconderse.

1606. El 11 de julio de 2009, aproximadamente a las 23:00 horas de la noche, un grupo de personas, supuestamente procedentes de Veracruz y pertenecientes a “Los Zetas”, habrían allanado el Albergue con la intención de raptar a un grupo de migrantes de Honduras. Esa misma noche, los agresores habrían subido a un tren en el que viajaban varios migrantes y se habrían llevado a un grupo de migrantes.

1607. Las acciones anteriormente mencionadas habrían puesto en riesgo a los miembros del Albergue del Migrante así como a los migrantes que se encontraban allí. Además, miembros del equipo que trabaja en el Albergue del Migrante habrían recibido amenazas de muerte y supuestamente se encuentran en una situación altamente riesgosa. El mayor factor de riesgo lo constituyen las organizaciones de la delincuencia organizada como “los Zetas”; el refugio y atención que ofrece el Albergue, así como su actividad de denuncia y promoción de los derechos humanos, implica para los delincuentes un freno en sus actividades de extorsión a las personas migrantes.

1608. A pesar de que miembros del Albergue del Migrante habrían hecho denuncias formales ante las instancias de Procuración de Justicia, ni las autoridades locales, ni las federales habrían tomado las medidas necesarias para brindar la protección y seguridad necesarias para el personal del Albergue y los migrantes.

1609. Se expresó temor que el padre Solalinde Guerra, el Sr. Alvarez Vargas, la Sra. Palomo Contreras y otros miembros del Albergue del Migrante “Hermanos en el Camino” podrían estar en

riesgo como resultado directo de su trabajo en defensa de los derechos humanos, en particular de los derechos de migrantes. Además, se expresó una profunda preocupación por la integridad psicológica y física de todos los miembros del Albergue del Migrante “Hermanos en el Camino”. Estos actos de hostigamiento e intimidación, de ser confirmados, se enmarcan en un contexto de gran vulnerabilidad de los migrantes en México que amenaza también aquellos que trabajan para la defensa de sus derechos.

Respuesta del Gobierno

1610. En una carta fecha el 7 de mayo de 2010, el Gobierno respondió al llamamiento urgente como se indica a continuación.

1611. Antecedentes: Según información proporcionada por el Instituto Nacional de Migración (INM), diversos medios de comunicación locales publicaron notas periodísticas que habitantes de Ciudad Ixtepec, Oaxaca, exigieron al sacerdote Alejandro Solalinde Guerra, director del albergue del migrante “Hermanos en el Camino de la Esperanza” y coordinador de la zona sur de la Dimensión Pastoral de la Movilidad Humana de la Conferencia Episcopal Mexicana, el cierre del albergue de manera definitiva y además amenazaron que de no hacerlo en un plazo de cinco días, incendiarían el albergue.

1612. La exigencia de los habitantes de dicho municipio obedeció a la denuncia presentada ante la Procuraduría General de Justicia del estado de Oaxaca (PGJ Oax), el 20 de junio de 2008 por parte de la Sra. Nora Luz Solano Rivera en contra del nacional nicaragüense Jaime Francisco Alvarado Flores¹, por el delito de violación en perjuicio de su hija de seis años de edad, ocurrido en su domicilio particular ubicado a un kilómetro del albergue.

1613. El sacerdote Alejandro Solalinde señaló a los habitantes que no era posible acceder a su requerimiento debido a que el albergue se encuentra a cargo de la Dimensión Pastoral de la Movilidad Humana, área Pastoral de Migrantes de la Diócesis de Tehuantepec, Oaxaca, cuya finalidad es ofrecer alimentación, albergue y atención médica a las personas migrantes procedentes de Guatemala, Honduras, El Salvador y Nicaragua, en tránsito temporal en México con rumbo hacia los Estados Unidos de América.

1614. Al tener conocimiento de las exigencias, el Arzobispo de Tijuana, responsable de la Dimensión Pastoral de la Movilidad Humana expresó su preocupación por la seguridad del sacerdote y solicitó a representantes del INM la implementación de las medidas de seguridad para la protección del sacerdote, de los migrantes que la habitan y del personal que lo auxilia. Por su parte, el sacerdote Solalinde solicitó ayuda al presidente municipal de Ciudad Ixtepec, Oaxaca para garantizar la seguridad del albergue.

1615. En atención a la petición formulada por el Arzobispo, el 26 de junio de 2008, la delegada regional del INM en el estado de Oaxaca solicitó al Secretario de Seguridad Pública Federal (SSP) y al Secretario de Protección Ciudadana del estado de Oaxaca, brindaran medidas de

¹ Actualmente el señor Jaime Francisco Alvarado Flores se encuentra cumpliendo una sentencia de prisión por el delito de violación.

seguridad para resguardar el orden de la comunidad y del albergue en caso de suscitarse hechos violentos que pusieran en riesgo la salud, integridad y vida del sacerdote Solalinde, de los migrantes albergados, así como los habitantes del municipio de Ciudad Ixtepec, Oaxaca.

1616. El 27 de junio de 2008, en las oficinas del palacio municipal de Ixtepec, Oaxaca, se celebró una mesa de diálogo con la participación del sacerdote Alejandro Solalinde, del presidente municipal y sus colaboradores, el ministerio público de Juchitán, Oaxaca, representantes del gobierno del estado de Oaxaca, de la Comisión Nacional de los Derechos Humanos, de la Comisión Estatal de Derechos Humanos de Oaxaca, de Ferrocarriles de México, de la Asociación Nacional Católica y una comisión conformada por los vecinos del municipio.

1617. Entre otras cuestiones amerita destacar que la comisión de vecinos mostró su inconformidad ante los hechos en los que se vio involucrado el nicaragüense Alvarado Flores y solicitó a las autoridades involucradas la pronta solución a la problemática que enfrenta el municipio con la estadía de los migrantes, así como lo relacionado con el funcionamiento del albergue.

1618. Al finalizar la reunión se concertaron los siguientes acuerdos:

- Se solicitó apoyo de la policía estatal y municipal con el objeto de incrementar la seguridad en el área en que se encuentra el albergue y la zona aledaña,
- El sacerdote Alejandro Solalinde ofreció edificar una barda perimetral en el albergue, así como elaborar un reglamento interno y un registro con fotografía de los migrantes que hicieran uso de las instalaciones,
- El municipio realice las labores de limpieza y alumbrado de la zona ferroviaria,
- Solicitar a la Secretaría de Gobernación su intervención para que analice las condiciones de operación del albergue para su permanencia o su posible reubicación.

1619. Adicionalmente, el 30 de junio de 2008, la Dirección Seguridad Pública del estado de Oaxaca ordenó a su jefatura operativa en Juchitán de Zaragoza, Oaxaca, efectuar recorridos de seguridad y vigilancia las 24 horas en el albergue, con el fin de prevenir la comisión de delitos.

1620. Trámite ante la Comisión Interamericana de Derechos Humanos: La Comisión Interamericana de Derechos Humanos (CIDH) transmitió al Estado mexicano tres solicitudes de información (15 de octubre, 30 de noviembre de 2009 y 3 de febrero de 2010) a fin de valorar la necesidad de implementación medidas cautelares en favor del sacerdote Alejandro Solalinde, y de los señores David Álvarez Vargas, Areli Palomo Contreras, Mario Calderón López y Norma Araceli Doblado Ábrego.

1621. En las solicitudes, las personas aludidas, señalaron haber sido objeto de amenazas y actos de hostigamiento en su contra entre los meses de mayo y julio de 2009, al parecer como resultado de las denuncias presentadas ante la PGJ Oax, por el delito de secuestro en agravio de los migrantes alojados en la casa del migrante.

1622. Acciones de la autoridad estatal: La PGJ Oax se encuentra integrando las averiguaciones previas 87(IXT)2009 y 136(IXT)2009 iniciadas con motivo de la investigación de los hechos denunciados por el sacerdote Alejandro Solalinde y por los señor David Álvarez Vargas y Areli Palomo Contreras.

1623. Acciones de la autoridad federal: El 28 de julio de 2009, el jefe del departamento de regulación migratoria del INM en el estado de Oaxaca, presentó denuncia ante el Ministerio Público Federal adscrito a la Delegación de la Procuraduría General de la República en el estado de Oaxaca, por el delito de privación ilegal de la libertad, en agravio de 6 extranjeros de nacionalidad hondureña.

1624. Como parte de las diligencias ministeriales, el 21 de agosto de 2009 se citó al sacerdote Alejandro Solalinde para rendir su declaración ministerial quien compareció el 17 de septiembre de 2009.

1625. Acciones de la Comisión Nacional de los Derechos Humanos: La Comisión Nacional de los Derechos Humanos (CNDH) informó que mediante una nota periodística publicada el 26 de julio de 2009 en un diario local, tuvo conocimiento que un grupo personas armadas irrumpieron el albergue “Hermanos en el Camino de la Esperanza” con el fin de secuestrar a un grupo de migrantes ahí alojados, para pedir a su familiares un rescate para su libertad.

1626. El 3 de agosto de 2009, personal de la CNDH entabló comunicación con el sacerdote Solalinde para ofrecer apoyo y medidas para su protección y de las personas que habitan el albergue.

1627. En respuesta al apoyo ofrecido de la CNDH, el sacerdote Alejandro Solalinde manifestó que no era su deseo presentar una queja, y únicamente solicitó la intervención de un representante de la institución para que lo acompañara ante el Ministerio Público Federal para presentar una denuncia. No obstante a lo anterior, la CNDH solicitó a la SSP la adopción de medidas cautelares para evitar acciones que pongan en riesgo la integridad física y psicológica del sacerdote Solalinde, del personal que labora en el albergue y de los migrantes ahí alojados.

1628. Las medidas cautelares fueron aceptadas e implementadas de manera inmediata por la SSP, dichas medidas se hacen consistir en llevar a cabo rondines de seguridad en los alrededores del albergue.

1629. Periodo de sesiones de la CIDH: Durante el 138° periodo ordinario de sesiones de la CIDH, se celebró una reunión de trabajo referente al asunto “Miembros del albergue del migrante hermanos en camino, Oaxaca” y una audiencia sobre el tema “Secuestro de personas migrantes en tránsito por territorio mexicano”, las cuales tuvieron verificativo el 20 y 22 de marzo de 2010, respectivamente. Participaron las víctimas, los peticionarios y las autoridades del Gobierno mexicano (Secretaría de Relaciones Exteriores, Secretaría de Gobernación, Instituto Nacional de Migración y la Comisión Nacional de los Derechos Humanos).

1630. En la reunión de trabajo y en la audiencia, el Relator para México, Rodrigo Escobar Gil y el Relator de Trabajadores Migratorios y Miembros de sus Familias, Paulo Sérgio Pinheiro recibieron información de las partes y convinieron que el Estado mexicano realice una evaluación sobre las condiciones que enfrentan los migrantes durante en tránsito por territorio

mexicano. El Estado se comprometió a elaborar un informe que contenga la política migratoria y las medidas para atender esta problemática. Actualmente dicho informe se encuentra en la fase de elaboración.

1631. Medidas cautelares solicitadas por la CIDH: El 23 de abril de 2010, la CIDH solicitó al Estado mexicano la adopción de medidas cautelares en favor del sacerdote Alejandro Solalinde y del personal que labora en el “Hermanos en el Camino de la Esperanza”, ya que habría sido objeto de actos de intimidación y hostigamiento que ponen en riesgo sus vidas e integridad personal

1632. Las medidas cautelares solicitadas por la CIDH consistieron en:

1. Adoptar las medidas necesarias para garantizar la vida y la integridad física del sacerdote José Alejandro Solalinde Guerra, y de los señores David Álvarez Vargas, Areli Palomo Contreras, Mario Calderón López y Nora Araceli Doblado Abrego, personal que labora en el albergue.
2. Planificar e implementar las medidas de protección con la participación de los beneficiarios y los peticionarios.
3. Informar sobre las medidas adoptadas a fin de remover los factores de riesgo para los beneficiarios.

1633. Con el fin de acordar de manera conjunta con los peticionarios las medidas que se adoptarán, se celebrará el 14 de mayo de 2010 una reunión de trabajo en la ciudad de Oaxaca, Oaxaca con la participación de las autoridades involucradas, los beneficiarios y sus representantes.

Llamamiento urgente

1634. El 17 de septiembre de 2009, la Relatora Especial sobre la situación de los defensores de los derechos humanos, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con las amenazas contra el Sr. **Artemio Hurtado Ruiz**, reportero del “Diario del Istmo” de Nanchital, estado de Veracruz. Recientemente, el “Diario del Istmo” ha publicado varias denuncias ciudadanas relativas a abusos de la Policía Intermunicipal (responsable de la seguridad pública en los municipios de Coatzacoalcos, Minatitlán, Cosoleacaque y Nanchital).

1635. Según las informaciones recibidas, el día 4 de septiembre a las 18:00 horas aproximadamente, el Sr. Artemio Hurtado Ruiz se encontraba en las inmediaciones de las oficinas de la comandancia local de la Policía Intermunicipal cuando se le habría acercado el Sr. Raúl de Lucio Rincón, comandante de la Policía Intermunicipal en Nanchital, quien le habría avisado de mantenerse lejos de la sede de la comandancia policial.

1636. Tras preguntar el Sr. Artemio Hurtado Ruiz por el significado de dicha advertencia, el Sr. Raúl de Lucio Rincón habría hecho alusión al Sr. Rodrigo Pérez, un periodista que había sido agredido anteriormente mientras realizaba su trabajo y finalmente le habría amenazado con detenerle sin motivación alguna.

1637. El día 9 de septiembre, alrededor de las 14:00, el Sr. Raúl de Lucio Rincón habría hecho irrupción en las oficinas del “Diario del Istmo” en Nanchital, acompañado de dos elementos que portaban armas largas para reclamar sobre la publicación de una nota que lo aludía acerca de las amenazas que el Sr. Raúl de Lucio Rincón habría dirigido al Sr. Artemio Hurtado Ruiz.

1638. En vista de lo aquí resumido se expresó temor que las amenazas contra el Sr. Artemio Hurtado Ruiz y la irrupción armada en las oficinas del periódico “Diario del Istmo” podrían estar relacionadas con las actividades periodísticas del Sr. Artemio Hurtado Ruiz y las denuncias ciudadanas relativas a abusos de la Policía Intermunicipal que el “Diario del Istmo” habría venido publicando en las pasadas semanas.

1639. Asimismo, se expresó preocupación por la situación que al parecer enfrenta los periodistas en México a la hora de investigar episodios de corrupción policíaca y política.

1640. En este contexto, temores acerca de intimidaciones y amenazas contra periodistas ya se habían trasladado al Gobierno de Su Excelencia con referencia a los casos del Sr. Aristeo Abundis Hernández en fecha 8 de julio de 2008, y del Sr. Carlos Ortega Samper en fecha 15 de mayo de 2009.

1641. Se lamentó no haber recibido respuesta en referencia a las comunicaciones arriba mencionadas y se expresó temor que el acoso físico y las intimidaciones verbales contra los periodistas en el ejercicio de sus funciones puedan afectar el disfrute de la libertad de expresión y de prensa en México.

Llamamiento urgente

1642. El 23 de septiembre de 2009, el Relator Especial envió un llamamiento urgente en relación con la persecución penal contra la Sra. **Rosa Cruz Rosas**, mujer indígena purépecha, casi monolingüe, de Ocumicho, en Michoacán, que pertenece a la radio Uékakua (la preferida).

1643. Según las informaciones recibidas, el día 29 de enero de 2009 más de 100 elementos de la Agencia Federal de Investigaciones habrían acudido a las instalaciones de la radio Uékakua y habrían procedido a amedrentar a las personas que en aquel momento se encontraban en la estación, incluidos niños y mujeres a las que los elementos policíacos amenazaron con golpear. Un menor habría sufrido consecuencias físicas directas al haber los miembros de la Agencia Federal de Investigaciones lastimado su mano mientras que una señora habría sido arrastrada violentamente de la radio.

1644. El día 13 de junio de 2009, la Sra. Rosa Cruz Rosas habría recibido un citatorio de comparecencia en la Agencia Segunda Investigadora del Ministerio Público de la Federación ubicada en Uruapan, Michoacán, para responder a la acusación de no haber obtenido el permiso del Estado para las operaciones de la radio Uékakua.

1645. La resolución de la Procuraduría General de la Republica se derivó de una denuncia presentada por la Secretaria de Gobernación en el año 2008, contra la Sra. Cruz Rosas por haber supuestamente usado, aprovechado y explotado, sin permiso, el espectro radioeléctrico de la COFETEL, conducta que estaría tipificada en el artículo 150 de la Ley General de Bienes

Nacionales y que conllevaría una pena de 2 a 12 años de prisión y una multa de entre \$16,440 y \$54,800 conforme el dispuesto del artículo 149 de la misma ley.

1646. Como consecuencia de la consignación, que habría estado determinada sin permitirle a la Sra. Rosa Cruz su legítimo derecho de defensa, un juez penal federal con residencia en Michoacán, deberá resolver si otorga una orden de aprehensión en contra de la Sra. Cruz Rosas, tal y como habría estado solicitado por el agente del Ministerio Público de la Federación.

1647. Se teme que la reciente decisión de la Procuraduría General de la República contra la Sra. Cruz Rosas represente un intento de represión contra la radiodifusión comunitaria, que constituye una herramienta esencial para las comunidades indígenas monolingües a las que la Suprema Corte de Justicia de la Nación ha reconocido el derecho a operar por sus propios medios de comunicación. Asimismo se expresa preocupación por la situación de la Sra. Cruz quien deberá enfrentarse a un proceso penal en una situación de vulnerabilidad debido a su falta de recursos económicos y a su limitado manejo del castellano.

Llamamiento urgente

1648. El 2 de diciembre de 2009, la Relatora Especial sobre la situación de los defensores de los derechos humanos junto con el Relator especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. **Mercedes Murillo Monge**, presidenta del Frente Cívico Sinaloense, FCS. El FCS ha denunciado violaciones a los derechos humanos cometidos por elementos castrenses en el contexto de la lucha contra grupos de delincuencia organizada.

1649. Según las informaciones recibidas: el 12 de noviembre de 2009, en la madrugada, más de 20 agentes militares habrían llegado a la casa de la Sra. Murillo Monge. Cuando la Sra. Murillo Monge habría abierto la puerta aproximadamente cinco agentes militares le habrían apuntado con armas de fuego. Le habrían informado que tenían que verificar su identidad y su domicilio y habrían hecho preguntas sobre su familia. Asimismo, le habrían informado que estaban actuando bajo órdenes de su general. Habrían aceptado una tarjeta profesional como comprobante de identificación.

1650. No es la primera vez que un integrante del FCS es objeto de agresión o intimidación. El 7 de septiembre de 2009, el Relator Especial sobre la promoción y la protección del derecho a la libertad de opinión y de expresión y la Relatora Especial sobre la situación de los defensores de los derechos humanos habrían enviado una comunicación conjunta al Gobierno de su Excelencia en relación con un intento de asesinato contra el Sr. Monárrez Meraz, secretario del FCS. Todavía no se ha recibido una respuesta a dicha comunicación y supuestamente los integrantes del FCS siguen sin medidas de protección. Asimismo, el hermano de la Sra. Murillo Monge, Ricardo Murillo Monge, uno de los fundadores de la organización FCS, habría sido secuestrado y asesinado en 2007. La policía todavía no habría identificado los responsables de este crimen.

1651. Se expresó temor que este acto de intimidación contra la Sra. Murillo Monge tendrían relación con las actividades que realiza en defensa de los derechos humanos, en particular, con la posición pública que el Frente ha adoptado sobre la inconveniencia de que las fuerzas armadas realicen actividades de seguridad pública, así como con el caso que el Frente Cívico Sinaloense

llevó en este año ante la Suprema Corte de Justicia de la Nación con el fin de que se revisara la constitucionalidad del ejercicio de la jurisdicción militar en los casos en que algún elemento de las fuerzas armadas sea acusado de haber violado los derechos humanos de civiles. Se expresó profunda preocupación por la integridad física y psicológica de la Sra. Murillo Monge así como la de los demás miembros del FCS.

Carta de alegaciones

1652. El 18 de diciembre 2009, el Relator Especial, junto con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, el Relator Especial sobre los efectos nocivos para el goce de los derechos humanos del traslado y vertimiento de productos y desechos tóxicos y peligrosos y la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron una carta de alegaciones en relación con los asesinatos de los Sres. **José Galindo Robles, José Bladimir, Antuna García y Mariano Abarca Roblero.**

1653. Según las informaciones recibidas, el Sr. José Galindo Robles era el director de la Radio Universidad de Guadalajara y había ganado varios premios importantes, incluyendo el **Premio Nacional de Periodismo Ambiental** por su reportaje sobre el vertimiento de desechos tóxicos en el Río Santiago por parte de empresas privadas.

1654. El 24 de noviembre de 2009, el cuerpo del Sr. José Galindo Robles habría sido encontrado en su casa en Guadalajara, Jalisco, con las manos atadas con un cable y su cuerpo envuelto en una cobija. La Oficina del Procurador habría informado que la causa de la muerte del Sr. José Galindo Robles habría sido una contusión profunda y una fractura en el cráneo.

1655. El Sr. José Bladimir Antuna García era periodista con el periódico local El Tiempo de Durango. El 2 de noviembre de 2009, el cuerpo del Sr. José Bladimir Antuna García habría sido encontrado cerca del hospital en Durango. El Sr. Antuna García habría sido secuestrado esa misma mañana mientras caminaba a su lugar de trabajo. Una nota habría sido encontrada al lado de su cuerpo que decía “Esto me pasó por dar información a los militares y escribir lo que no se debe. Cuiden bien sus textos antes de hacer una nota. Atentamente Vladimir”. La semana antes de su muerte, habría publicado un artículo sobre la corrupción policial en Durango y habría investigado el asesinato no resuelto de otro periodista de El Tiempo de Durango, el Sr. Carlos Ortega Samper, que había sido secuestrado y asesinado el 3 de mayo de 2009.

1656. El Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y la Relatora Especial sobre la situación de los defensores de los derechos humanos expresaron su preocupación en relación con el asesinato del Sr. Carlos Ortega Samper en una comunicación conjunta que fue enviada al Gobierno de su Excelencia el 15 de mayo de 2009. Lamentamos no haber recibido una respuesta del Gobierno de su Excelencia a dicha comunicación.

1657. El Sr. Mariano Abarca Roblero era integrante del Frente Cívico de Chicomuselo y de la Red Mexicana de Afectados por la Minería (REMA). Realizaba actividades de protesta contra la explotación minera en México y formaba parte del movimiento organizado por habitantes de Chicomuselo para oponerse a la explotación de la compañía minera canadiense Blackfire Exploration Ltd.

1658. El 27 de noviembre de 2009, aproximadamente a las 20:00 horas de la tarde, el Sr. Abarca Roblero habría sido asesinado por un hombre armado no identificado mientras hablaba con un colega afuera de su casa en Chicomuselo, Chiapas. El asesino se les habría acercado en motocicleta y les habría disparado varias veces. El Sr. Abarca Roblero habría muerto inmediatamente y su colega habría sido herido en el incidente.

1659. Recientemente, el Sr. Abarca Roblero habría recibido varias amenazas de muerte por parte de algunos empleados de la compañía minera Blackfire Exploration Ltd. Habría denunciado estas amenazas ante el Ministerio Público pero las autoridades no habrían adoptado las medidas de protección necesarias para garantizar su integridad física.

1660. Varias organizaciones en Chiapas realizan actividades en protesta contra la explotación de recursos naturales alegando que ésta afecta los derechos humanos de la población local. Se alega que los integrantes de estas organizaciones también podrían estar en riesgo. Recientemente, miembros del Comité de Derechos Humanos Oralia Morales en el Municipio de Frontera Comalapa y del Comité de Derechos Humanos 10 de Enero también habrían recibido amenazas por parte de empleados de Blackfire Exploration Ltd.

1661. Se teme que los asesinatos de los Sres. José Galindo Robles, José Bladimir Antuna García y Mariano Abarca Roblero y las amenazas contra los integrantes de las organizaciones antimineras en Chiapas como Dos Valles Valientes, el Comité de Derechos Humanos 10 de Enero y el Comité de Derechos Humanos Oralia Morales estén relacionados con su trabajo como periodistas y defensores de derechos humanos. Asimismo, se expresa una profunda preocupación de que los asesinatos de los Sres. Galindo Robles y Antuna García formen parte de un patrón de asesinatos de periodistas que investigan e informan sobre temas políticamente susceptibles en México y que representen un intento de impedir y silenciar al periodismo independiente en el país.

Carta de alegaciones

1662. El 19 de enero de 2010, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron una carta de alegaciones en relación con en relación con la Sra. **Josefina Reyes**. La Sra. Josefina Reyes era defensora activa de los derechos humanos y activista social, trabajando en la Ciudad de Valle de Juárez en el Estado de Chihuahua, México. Tras el secuestro de su hijo en 2008, aparentemente cometido por integrantes del Ejército Nacional, Josefina Reyes comenzó realizar actividades para combatir la represión, la violencia y las violaciones de los derechos humanos a manos del ejército y otras agencias de orden público en Chihuahua. Josefina Reyes había denunciado públicamente al Ejército y su papel en el aumento de violencia, crimen organizada, narcotraficante y militarización en la región; por ejemplo, participó en el Foro Contra la Militarización y la Represión durante el mes de agosto de 2009.

1663. Según las informaciones recibidas, el día 3 de enero de 2010, aproximadamente a las 1.30 horas de la tarde, agentes policiales descubrieron el cuerpo de Josefina Reyes afuera de una tienda en la municipalidad de Guadalupe, al oeste de Ciudad Juárez. Un testigo habría presentado el testimonio que un grupo desconocido de hombres armados se habrían acercado a la defensora de los derechos humanos y habrían intentado secuestrarle. Josefina Reyes habría

resistido y luchado contra los hombres; el testigo habría informado que uno de los hombres habría dicho, “te crees muy chingona porque estás con las organizaciones”. Después, le habría disparado en la cabeza.

1664. Se teme que el asesinato de Sra. Josefina Reyes esté relacionado con las actividades que ella realizaba para promover y defender los derechos de la gente del Estado de Chihuahua. Se expresa una profunda preocupación por la integridad física y psicológica de todos los defensores de los derechos humanos en Chihuahua. Estos asesinatos, de ser confirmados, se enmarcan en un contexto de gran vulnerabilidad para los defensores de los derechos humanos en México. Quisiera recordarle al Gobierno de su Excelencia que tiene la responsabilidad de garantizar la seguridad de los defensores de los derechos humanos y de tomar las medidas necesarias para asegurar que ninguna violación contra un defensor de los derechos humanos quede en la impunidad

Carta de alegaciones

1665. El 22 de enero de 2010, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, enviaron una carta de en relación al asesinato del **Sr. José Luis Romero**, periodista que trabajaba para la emisora Radio Sistema del Noroeste. Informaba sobre crimen y temas policiales para el programa de noticias, “Línea Directa”.

1666. Según las informaciones recibidas, el día 16 de enero de 2010 en las horas de la mañana, agentes policiales habrían descubierto cadáver del Sr. José Luis Romero cerca de la ciudad de Los Mochis en la provincia de Sinaloa. El cuerpo habría sido envuelto en cuatro bolsas de plástico negras y depositado al lado del camino entre Los Mochis y El Fuerte, cerca del pueblo de Mochichahui. La policía habría encontrado el cuerpo después de haber recibido una llamada telefónica anónima ese mismo día a las 1.30 horas de la madrugada. La persona desconocida que llamó habría dicho que el cuerpo en ese lugar era el del Sr. José Luis Romero.

1667. Muestras de tierra se habrían encontrado en el cadáver; por lo tanto, las autoridades habrían sugerido que el cuerpo habría sido enterrado antes de ser exhumado y depositado al lado de la carretera para que fuera descubierto más fácilmente. José Luis Romero habría recibido impactos de bala en la cabeza y el hombro. Además se habrían encontrado indicios de tortura, como fracturas a piernas y cráneo y heridas en las manos. El Sr. Ramón Ignacio Rodrigo Castro, subprocurador del norte de la provincia de Sinaloa, habría confirmado que José Luis Romero habría sido asesinado por lo menos dos semanas antes del descubrimiento de su cuerpo.

1668. El día antes del descubrimiento del cuerpo, una pancarta se habría colgada en un puente alrededor del norte de Los Mochis, supuestamente con sugerencias sobre el paradero de José Luis Romero. La pancarta dijo, “Devuelvan a José Luis Romero (periodista). Ejército: búquenlo en Plan del Río, Guasave”. Por consiguiente, agentes del 89 Batallón de Infantería del Ejército Nacional habrían interrogado vecinos y realizado búsquedas de varias casas en las comunidades de Plan de Río y Ranchito de Castro en Guasave.

1669. José Luis Romero habría sido secuestrado el día 30 de diciembre de 2009. A las 6:00 horas de la tarde aproximadamente, José Luis Romero estaba en el centro de Los Mochis cuando unos hombres armados no identificados, llevando pasamontañas, le habrían secuestrado. Seis

horas después del secuestro, el jefe del equipo policial de investigación, el Sr. Jesús Escalante Leyva, murió cuando se le habría disparado aproximadamente 30 veces afuera de su oficina. Jesús Escalante Leyva estaba a cargo de la investigación sobre el secuestro de José Luis Romero. El Fiscal General del Estado habría confirmado que los dos asesinatos podrían estar vinculados.

1670. Se teme que el asesinato del Sr. José Luis Romero esté relacionado con las actividades que él realizaba para promover y defender los derechos de la gente del Estado de Sinaloa. Además, el asesinato del Sr. Jesús Escalante Leyva es un recordatorio de los riesgos graves para aquellos que luchan contra la cultura de impunidad en la región. Se expresa una profunda preocupación por la integridad física y psicológica de todos los defensores de los derechos humanos en el Estado de Sinaloa, México. Estos asesinatos, de ser confirmados, se enmarcan en un contexto de gran vulnerabilidad para los defensores de los derechos humanos en México

Carta de alegaciones

1671. El 2 de febrero de 2010, el Relator Especial, junto con el Presidente del Grupo de Trabajo sobre las desapariciones forzadas o involuntarias, el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias y la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron una carta de alegaciones en relación con la Sra. **Cipriana Jurado Herrera**. La Sra. Cipriana Jurado Herrera es Directora del Centro de Investigación y Solidaridad Obrera (CISO) y también es integrante de la Coordinadora de Organizaciones de la Sociedad Civil, con base en Ciudad Juárez, Chihuahua. La Sra. Cipriana Jurado Herrera realiza actividades contra los abusos y violaciones de los derechos humanos a manos de los agentes militares y el personal de seguridad en la región. En particular, trabaja para hacer públicas las desapariciones forzadas, ha criticado a las fuerzas armadas y ha asumido varios casos en contra de abusos supuestamente cometidos por agentes militares en el Operativo Conjunto Chihuahua. La Sra. Cipriana Jurado Herrera era compañera de la Sra. Josefina Reyes, una activista que había denunciado públicamente al Ejército y su papel en el incremento de la violencia, el crimen organizado, el narcotráfico y la militarización en la región. La Sra. Josefina Reyes fue asesinada el día 3 de enero de 2010.

1672. Según las informaciones recibidas, en meses recientes, la Sra. Cipriana Jurado Herrera habría recibido varias amenazas y habría sufrido actos de hostigamiento e intimidación como consecuencia de su labor en contra de las desapariciones forzadas y otras violaciones cometidas por miembros de las fuerzas armadas. Como resultado de las graves amenazas en contra de la Sra. Cipriana Jurado Herrera y la vulnerabilidad de su situación actual, el día 25 de enero de 2010 se habría presentado una solicitud formal ante la Comisión Nacional de los Derechos Humanos solicitando que las autoridades mexicanas implementen las medidas cautelares necesarias para evitar “hechos de difícil o imposible reparación”. Asimismo, se habría presentado una solicitud ante la Comisión Interamericana de los Derechos Humanos (CIDH) solicitando medidas cautelares para garantizar la vida, integridad y seguridad física y psicológica de la Sra. Cipriana Jurado Herrera y su familia, además de la realización de una investigación inmediata, imparcial y exhaustiva sobre el asesinato de la Sra. Josefina Reyes.

1673. Además, tras el asesinato de la Sra. Josefina Reyes, se teme que otros defensores y defensoras de los derechos humanos de Ciudad Juárez, sobre todo los integrantes de la Coordinadora de Organizaciones de la Sociedad Civil, estén en grave riesgo, en particular aquéllos que critican y hacen públicas las violaciones y abusos cometidos por miembros de las fuerzas armadas.

1674. Se teme que las amenazas y los actos de hostigamiento e intimidación en contra de la Sra. Cipriana Jurado Herrera estén relacionados con las actividades que ella realiza para promover y defender los derechos de la gente del Estado de Chihuahua. Se expresa una profunda preocupación por la integridad física y psicológica de todos los defensores y defensoras de los derechos humanos en Chihuahua. Estos actos de hostigamiento e intimidación, de ser confirmados, se enmarcan en un contexto de gran vulnerabilidad para los defensores de los derechos humanos en México. Se expresa, asimismo, temor sobre el supuesto ambiente de hostigamiento e intimidación en contra de los defensores y defensoras en Chihuahua, y sobre la cultura de impunidad en que ocurren las violaciones graves de los derechos humanos fundamentales. Quisiera recordarle al Gobierno de su Excelencia que tiene la responsabilidad de garantizar la seguridad física y psicológica de los defensores de los derechos humanos y de tomar las medidas necesarias para asegurar que ninguna violación contra un defensor de los derechos humanos quede en la impunidad.

Observaciones

1675. El Relator Especial agradece las respuestas proporcionadas por el Gobierno de México y expresa su satisfacción por el hecho de que se hayan iniciado investigaciones en varios de los casos presentados a la atención del Gobierno por la Relatora. El Relator Especial expresa también su satisfacción por los procesos de protección que se han implementado en varios casos. No obstante, el Relator Especial lamenta que al momento de finalizar el presente informe no había recibido respuesta a varias comunicaciones enviadas en 2009. El Relator Especial considera que al responder a las comunicaciones representa un elemento fundamental para la cooperación de los Estados con el mandato, es por ello que insta al gobierno mexicano a que le proporcione una respuesta tratando los asuntos mencionados.

1676. El Relator Especial insta al Gobierno a que proporcione información adicional y resultados concretos de las investigaciones mencionadas en las respuestas enviadas, y solicita información sobre las comunicaciones que aún no han sido respondidas.

1677. Hay preocupaciones graves sobre las restricciones en relación con la libertad de expresión, incluyendo la libertad de la prensa. Este problema es muy marcado en relación con los defensores que investigan, vigilan, registran y hagan pública la corrupción, el crimen organizado y las violaciones cometidas por las fuerzas armadas y las autoridades con el fin de luchar contra la impunidad por aquellos que cometen las violaciones de los derechos humanos.

Morocco

Appel urgent

1678. Le 21 août 2009, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, a envoyé un appel urgent concernant la situation

de M. **Ennaama Asfari**. M. Asfari est le co-président du Comité pour le respect des libertés et des droits humains au Sahara occidental – CORELSO. M. Asfari a fait l'objet d'un appel urgent envoyé par le Rapporteur spécial sur la torture et l'ex-Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 23 avril 2008. Nous accusons réception de la réponse du Gouvernement de votre Excellence en date du 20 juin 2008. Selon les nouvelles informations reçues :

1679. Depuis sa participation à une conférence sur le Sahara occidental en Algérie en juillet 2009, M. Asfari serait suivi et ferait l'objet d'actes d'intimidation par la police marocaine.

1680. Le 14 août 2009, lors d'un contrôle d'identité à un barrage de police à Tan-Tan, M. Asfari aurait été contraint de retirer le drapeau Sahraoui de son porte clés et aurait été agressé par un agent de police avant d'être arrêté. Le 17 août 2009, M. Asfari aurait été accusé « d'insulte à un fonctionnaire de l'Etat » et aurait comparu devant un Tribunal à Tan-Tan. Son procès aurait été ajourné jusqu'au 24 août 2009.

1681. Des craintes sont exprimées quant au fait que l'arrestation et la détention de M. Asfari soient liées à ses activités non violentes de promotion et de protection des droits de l'Homme. Par ailleurs, compte tenu des conditions brutales de son arrestation, des craintes sont également exprimées quant à la sécurité physique et psychologique de M. Asfari pendant sa détention.

Réponse du Gouvernement

1682. Le 9 novembre 2009, le Gouvernement marocain a répondu à l'appel urgent du 21 août 2009. Le Gouvernement informe que lors d'un contrôle routier le 14 août 2009, M. Asfari, après avoir refusé de décliner son identité et de présenter les papiers de son véhicule, a quitté sa voiture pour proférer une série d'insultes à l'adresse des agents de police tout en les menaçant à l'aide d'une pierre avant de s'en prendre physiquement à quatre d'entre eux.

1683. Le substitut du Procureur du Roi près le tribunal de 1ère instance de Tan Tan a ordonné l'interpellation de M. Asfari ainsi que celle de son neveu, qui l'a soutenu dans ce méfait. Au moment de sa conduite aux locaux de police, M. Asfari a violenté les policiers chargés de son transfert, nécessitant leur évacuation à l'hôpital et leur causant respectivement des arrêts de travail de 4, 5 et 25 jours.

1684. Lors de son audition dans les locaux de la police judiciaire, M. Asfari a reconnu les faits et placé sous mandat de dépôt à la prison de Tan Tan. Le 27 août 2009, M. Asfari a été condamné à 4 mois de prison ferme pour refus d'obtempérer, outrage aux fonctionnaires lors de l'exercice de leurs fonctions, insultes et injures, menaces et utilisation de la violence, ayant causé des blessures en vertu des articles 263 et 267 du code pénal.

1685. L'arrestation de M. Asfari est liée à l'accomplissement d'actes interdits par la loi et donc passibles de sanctions et n'a, de ce fait, aucun rapport avec ses activités séparatistes ni avec sa participation, en toute liberté et sans la moindre restriction, au festival de la culture sahraouie organisé en Algérie au mois de juillet 2009. Les allégations de mauvais traitements et agression dont aurait été victime M. Asfari sont dénuées de tout fondement.

1686. Quant aux allégations relatives au non respect des conditions du procès équitable, M. Asfari a bénéficié, durant toute la période du procès, de tous ces droits dans le respect de la dignité humaine. Les représentants de certaines organisations marocaines et étrangères des droits de l'homme ainsi que deux avocats étrangers ont assisté à cette audience.

Observations

1687. Le Rapporteur spécial remercie le Gouvernement de sa réponse.

Myanmar

Urgent appeal

1688. On 7 April 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights in Myanmar, sent an urgent appeal regarding Ms. **Ma Eint Khaing Oo**, 24 years of age, reporter for "Ecovision" journal, usually residing at Ward 46, North Dagon Township, and Mr. **Kyaw Kyaw Thant**, 29 years of age, freelance reporter and former senior editor for the "Weekly Eleven" journal, usually residing at Pauktawwa Ward, Insein Township.

1689. According to the information received, Ma Eint Khaing Oo and Kyaw Kyaw Thant were arrested on 10 June 2008 by police officers from the Tamwe Township and by members of "Swan-arshin ("Masters of Force"), an organization affiliated to the Government, after they had accompanied a group of women and children to the offices of the International Committee of the Red Cross (ICRC) and the United Nations Development Programme (UNDP) in Yangon. The group's intention was to request assistance for rebuilding their houses that had been destroyed by cyclone Nargis more than a month before.

1690. The two journalists were subsequently charged by the police with "intent to cause ... fear or alarm to the public ... whereby any person may be induced to commit an offence against the State or against the public tranquility". The police were alleging that they had created animosity towards the Government by stating that the families had not received assistance from the Government and required support of international organizations.

1691. In a closed court session before the Tamwe Township Court, with Judge Daw Than Than (Special Powers) presiding, Ma Eint Khaing Oo and Kyaw Kyaw Thant denied the charges and witnesses for the prosecution provided testimony in their support.

1692. On 14 November 2008, the Court convicted the two journalists to two years of imprisonment with hard labour for attempting to incite others to cause public disturbance pursuant to section 505 (b) of the Penal Code (Felony No. 760/2008). The Judge emphasised the lack of evidence Kyaw Kyaw Thant presented to prove his innocence.

1693. Kyaw Kyaw Thant was convicted to a further prison term of five years on a separate charge pursuant to section 13 (1) of the Immigration (Emergency Provision, Temporary) Act 1947 (Felony No. 949/2008) for visiting Thailand in 2007 and staying in that country illegally. Mr. Kyaw Kyaw Thant argued that he went to Thailand legally as part of a media study tour in his capacity as then editor of the "Weekly Eleven" and had applied for and obtained permission to travel abroad through the immigration department in accordance with the law. Witnesses called from the immigration department did not contradict his statement during the trial.

Response from the Government

1694. In a letter dated 2 July 2009, the Government responded to the communication above regarding Ms. Eint Khaing Oo and Mr. Kyaw Kyaw Thant, and elaborated as follows.

1695. A reporter from “Ecovision”, Ms. Eint Khaing Oo (28 year old, father named U Myint Oo) and Mr. Kyaw Kyaw Thant (28 year old, father named U Soe Myint) were questioned on 10 June 2008 by security officials after they had accompanied a group of people from the rescue camp, which was opened for the cyclone victims to the UNDP office in Yangon.

1696. According to the interrogations made by the authorities concerned, it was found that Ms. Eint Khaing Oo and Mr. Kyaw Kyaw Thant untruthfully persuaded the group to seek assistance from the ICRC and UNDP offices in Yangon without the knowledge of the local authorities. They had created animosity towards the Government by misleadingly stating that the families had not received necessary assistance from the government. To this end they were charged under the section 505(b) of the Penal Code for attempting to incite others to cause public disturbance.

1697. It was also found that Mr. Kyaw Kyaw Thant went to Thailand illegally in November 2007. Therefore, he was charged separately under section 13(1) of the Immigration (Emergency Provision) Act.

1698. The Court found them guilty and sentenced them to two years of imprisonment with hard labour.

1699. Mr. Kyaw Kyaw Thant was given a further prison term of five years under the Immigration Act. In this connection, the Government further informed that their cases were heard by the concerned Tamwe Township Court of Yangon and respective sentences were given to them according to the rule of law.

Urgent appeal

1700. On 16 April 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the situation of human rights in Myanmar, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding the arbitrary arrest of five members of the Federation of Trade Unions of Burma (FTUB), Mr. **U Zaw Myint Aung**, Mr. **U Soe Oo**, Mr. **Maung Tun Nyein**, Ms. **Khine Lin Myat** and Ms. **Shwe Yi Nyunt**. The FTUB campaigns for workers’ rights and for the improvement of wages and working conditions for workers in Myanmar. Since its foundation in 1991, FTUB has worked to end violations of fundamental trade union and other human rights.

1701. According to the information received, on 1 April 2009, Mr. U Zaw Myint Aung, Mr. U Soe Oo, Mr. Maung Tun Nyein, Ms. Khine Lin Myat and Ms. Shwe Yi Nyunt, who is also a member of FTUB Women’s Committee, were arrested at their places of residence in Rangoon as they returned home from the First National Congress of the FTUB.

1702. The FTUB members are alleged to be held in interrogation centres in the Rangoon area, where it is feared they may be subjected to torture.

1703. According to the information received, an unspecified number of family members of the aforementioned FTUB members were also arrested, threatened and put under pressure in an effort to coerce cooperation from the five detained FTUB members.

1704. Concern was expressed that the arrest of Mr. U Zaw Myint Aung, Mr. U Soe Oo, Mr. Maung Tun Nyein, Ms. Khine Lin Myat and Ms. Shwe Yi Nyunt might be related to their legitimate activities defending human rights, particularly the rights of workers in Myanmar. With a view to the alleged detention in interrogation centres, concern was also expressed for their mental and physical integrity.

Urgent appeal

1705. On 19 May 2009, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on the situation of human rights in Myanmar, sent an urgent appeal regarding the **Burma Lawyers' Council**, based in Thailand, and its Secretary-General Mr. **U Aung Htoo**.

1706. According to the information received, on 30 April 2009, the Government of Myanmar issued Order 1/2009. By this order the Burma Lawyers' Council was declared unlawful, based on the Unlawful Associations Act of 11 December 1908. Moreover, the Burma Lawyers' Council was recently labeled as an "enemy of the State" by several state-controlled print media.

1707. On 4 May 2009, an arrest warrant was issued against Mr. U Aung Htoo, Secretary-General of the Burma Lawyers' Council. This development coincided with a workshop on "Advancing human rights and ending impunity in Burma" held by the non-governmental organization International Federation for Human Rights jointly with the Burma Lawyers' Council in Bangkok.

1708. In the past couple of years, the Burma Lawyers' Council has expressed criticism towards various aspects of the human rights policy implemented by the Government of Myanmar. In addition, the Council has addressed the situation of defense lawyers in the country, in particular cases in which lawyers have been imprisoned for defending their clients.

1709. Concern was expressed that the ban on the Burma Lawyers' Council and acts of harassment and intimidation against its members, in particular Mr. U Aung Htoo, might be related to their peaceful activities defending human rights in Myanmar, including in their capacity as lawyers.

Urgent appeal

1710. On 16 October 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights in Myanmar, the Chairperson Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding the case of Mr. **Hla Myo Naung**, who is at serious risk of total blindness unless he receives the specialist medical

treatment he requires without further delay. Mr. Hla Myo Naung has already been the subject of a joint urgent appeal addressed to the Government by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on the situation of human rights in Myanmar on 5 November 2008.

1711. According to further information received, 42 year-old Hla Myo Naung is a prominent member of the movement called “88 Generation Students”, led by Min Ko Naing. He played a leading role in the political events in Myanmar in 1988 when he was in his final year of law school, which led to his first term of imprisonment. He participated in the demonstrations against the fuel price hike in August 2007, and after the arrest of many of his colleagues during that month, he became the main spokesperson for the “88 Generation Students”. He was arrested on 10 October 2007, when he came out of hiding to seek treatment for his deteriorating eyesight. In November 2008, he was sentenced to a prison term of 65 years and 6 months, and was transferred to the remote Myitkyina prison shortly afterwards.

1712. An unsuccessful eye surgery was conducted while he was in detention on 12 October 2007, and led to the loss of vision in one of his eyes. He later began to experience the same symptoms in his functional eye that had led to blindness in the other eye. He is known to be suffering from keratitis (an inflammation of the cornea) and corneal opacity. Without immediate specialist treatment, Hla Myo Naung faces total blindness.

1713. It was requested that Hla Myo Naung be immediately transferred back to Insein prison in Yangon, and to arrange for specialist medical care for him without further delay. Myitkyina prison in Kachin State, Myanmar, is over 900 miles from Yangon where his wife lives.

Observations

1714. The Special Rapporteur thanks the Government for its response, but regrets that at the time of finalizing the present report, the Government had not transmitted a reply to various communications sent in 2009, 2008, 2007, 2006, 2005 and 2004. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

1715. The Special Rapporteur, together with the Vice Chairperson-Rapporteur of the Working Group on arbitrary detention, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on the situation of human rights in Myanmar, issued a press release on 10 August 2009, in which they deplored the confinement of Aung San Suu Kyi to 18 months of house arrest, and reiterated their call for her immediate and unconditional release. They stressed that it was a baseless trial convened by the Government of Myanmar to exclude Aung San Suu Kyi from the 2010 elections, and that the charges laid against the leader of the National League for Democracy and Nobel Peace Prize laureate were itself in violation of international human rights law. In addition to the fact that the holding of this trial was unlawful, the experts expressed concern about numerous reports of irregularities in the way it was conducted.

Namibia

Letter of allegations

1716. On 19 January 2010, the Special Rapporteur sent a letter of allegations to the Government concerning attacks against Mr. John Grobler, freelance journalist.

1717. According to information received, on 8 January 2010 at Pharoa's bar in Windhoek, Mr. Grobler was attacked by four assailants, who cut his face with a broken glass and kicked him repeatedly in the head. Mr. Grobler was taken to MediCity Emergency Clinic, where he was treated and released. Before he was attacked, he was allegedly accused by the assailants of writing derogatorily about the ruling party in Namibia, the South West Africa People's Organisation (SWAPO).

1718. Mr. Grobler has reportedly been able to identify three out of four assailants as prominent businessmen with close ties to SWAPO: Mr. Desmond Amunyela, Mr. David Imbili, and Mr. Kiplat Kamanya. On 12 January 2010, Mr. David Imbili reportedly filed a counter-claim with the police, stating that it was Mr. Grobler who had attacked the four men.

1719. Concern was expressed that the attack against Mr. Grobler is linked to the article that he wrote for South African weekly *The Mail and Guardian* in December 2009, in which accused the ruling party of widespread vote-rigging during the presidential and parliamentary elections in November 2009.

Observations

1720. The Special Rapporteur regrets that at the time of finalizing the present report, the Government had not transmitted a reply to the communication above.

Nepal

Urgent appeal

1721. On 14 January 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal regarding the killing of Ms **Uma Singh**, a journalist with *Janakpur Today Daily* and *Radio Today FM* and member of the Women Human Rights Defenders Network in Dhanusha, and alleged threats against Ms **Manika Jha**, journalist with the *Kathmandu Post Newspaper* in Janakpur.

1722. According to information received, on 11 January 2008, at approximately 7:00 p.m., around 15-20 men wielding blunt objects and khukuri knives surrounded the room which Ms Singh rented in Janakpur. Several of the assailants then entered Ms Singh's room where they began to attack her. When Ms Singh tried to resist the assault, she was dragged outside onto the veranda where the attack continued. Ms Singh sustained serious injuries, including stab wounds, to her face, head, neck and stomach. Following the attack, neighbours immediately rushed Ms Singh to the nearest hospital. Ms Singh died before midnight while being transferred by road to a hospital in Kathmandu. A police investigation has been launched into the incident. However, as yet a motive for the killing has not been established.

1723. A few hours after the attack on Ms Singh, at approximately 11:30 p.m., an unidentified group of approximately 6 men began banging on the corrugated iron gate outside Ms Manika Jha's house in Janakpur. The men then jumped into the compound and broke her bedroom window. Ms Jha alerted the police by text message and asked her uncle, who lives next door, for help. He raised the alarm and people within the neighbourhood started gathering in the vicinity. A short time later, a police van also arrived on the scene and the attackers fled. At some point before they fled, the assailants reportedly threatened Ms Jha that she 'would be next'. Following the incident, Ms Jha was provided with security protection throughout the night. The next morning, she found that a cross had been drawn with mud/clay on the metal gate outside her house.

1724. Ms Singh was an active journalist who, prior to her death, had written articles covering women's rights, including criticism of the traditional dowry system, and local political issues. She started working as a journalist after her father and brother were abducted in September 2006, allegedly by the Maoists. Their whereabouts remain unknown. In December 2008, Ms Singh had reportedly received threats from an unidentified source, while Ms Jha had been receiving threats in a regular basis since November. Ms Singh and Ms Jha had purportedly informed the local authorities about the threats however no action was taken.

Response from the Government

1725. In a letter dated 29 January 2009, the Government indicated that the letter had been forwarded to Kathmandu with the request for information on this case.

Urgent appeal

1726. On 30 April 2009, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the situation of human rights defenders, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal regarding **Ms. K. D. S., Ms. T. M., Ms. S. K., Ms. B. C., Ms. S. S. and Ms. L. Ch. and other women human rights defenders** of Chimdi Village Development Committee (VDC) in Sunsari district in Nepal as well as Mr. R. N., Mr. K. B. and Mr. G. K., all of them journalists, Mr. S.C., representative for the Informal Sector Service Centre (INSEC) and Mr. B.C., a member of the Women's Rehabilitation Centre (WOREC) in Sunsari district, an organization helping victims of domestic and sexual violence.

1727. On 9 April 2009, Ms. K. D. S., after calling for respect of the fundamental right of any person to marry and to choose freely her/his spouse, was beaten up by the relatives of Ms. L. G., a young woman who had planned to have an inter-caste wedding with a young man belonging to the Dalit community. The two young people were also beaten up by L. G.'s relatives for speaking to each other in public. Immediately after the assault, K. D. S. approached the Illaka police station of Chimdi to file a complaint, but the Sub-Inspector refused to receive it.

1728. On 11 April 2009, the Women Human Rights Defender Network, Sunsari, and more than 500 women from eight Village Development Committees (VDC) staged a demonstration in front of the police station in Chimdi VDC, in order to call for sanctions against the police for refusing to register K.D.S.'s complaint and to denounce the denial of access to justice. While doing so,

they evoked the statement made by the Prime Minister on 25 January 2009, in which he committed himself to establish a complaints centre for women in order to end all forms of violence against women and criminalize caste-based discrimination against Dalits. They also called for a police apology since, on 10 April, while the Chimdi VDC were walking towards the police station in Chimdi, police officers publicly insulted them.

1729. The women human rights defenders were subsequently assaulted with batons and the butt of their guns by around ten police officers and four other unknown persons. The police beat the women on their head, chest, thighs and legs and some tried to sexually harass some of them. At least 14 women were injured, including Ms. T. M., Ms. S. K., Ms. B. C., Ms. S. S. and Ms. L. C., who were seriously injured and were brought to the Koshi Zonal hospital for medical treatment.

1730. The journalists R. N., K. B. and G. K. as well as S. C., representative for the Informal Sector Service Centre, who had gone to the police station to investigate the incident were also allegedly manhandled and their vehicle vandalized by the police. Likewise, Mr. B. C., a member of the Women's Rehabilitation Centre was also threatened.

1731. Concern was expressed that the alleged police violence against Ms. K.D.S., Ms. T.M., Ms. S. K., Ms. B.C., Ms. S.S. and Ms. L.Ch and other women human rights defenders of Chimdi Village Development Committee (VDC) and the intimidation and threats made against Mr. R. N., Mr. K. B., Mr. G.K., Mr. S. C and Mr. B. C. might be related to their legitimate work in defence of human rights in Nepal, particularly the rights of women and the Dalit community. Further concern was expressed for their physical and mental integrity.

Response from the Government

1732. In a letter dated 8 February 2010, the Government responded to the communication, and provided the following information.

1733. On 9 April 2009, approximately eight to ten women, including Ms. K. D. S., visited the Area Police Office in Chimdi, Sundari district, and verbally reported the incident of battery of Ms. K. D. S. Sub-Inspector Rajesh Chaudhary requested them for a written complaint of the incident. Without presenting any written complaints, the group of the women left the Area Police Office in anger.

1734. In the afternoon of 10 April 2009, approximately 100 to 150 women from WOREC Federation Nepal approached the Area Police Office chanting various slogans and subsequently in utter demonstration of violence locked the office of Sub-Inspector Rajesh Chaudhary. They behaved disorderly and rude, casting displeasure and anger and ragged the properties of the office. The police remained calm and asked for orderly demonstration and to present their demand or complaint in writing so that it could take its course.

1735. On 11 April 2009, at around 14:00, approximately 400 to 500 women chanting slogans attempted to forcibly enter the police station en mass. The mood of the mass appeared disorderly and violent. At around 16:00, the women protesters set on fire a power trailer and vandalized a private van with registration no. Ko-1-Cha 3871, in which journalists and human rights activists were travelling. Amid such situation, the police was forced to disperse the crowd with utmost restraint, using light baton charge. As a result, in their attempt to run in the midst of the crowd,

minor injuries incurred onto Ms. T.D.M., Ms. S.K., Ms. S.S., and Ms. L. Ch, who were immediately taken to the hospital for treatment and were later discharged from the hospital after minor primary treatment. Except this light use of force by the police to disperse the crowd in order to prevent the mob from incurring destruction to the public and private properties and harming the people around, they were neither beaten by the police nor were they subject to ill treatment. In all series of the agitations, they were treated with respect and honour and were not subject to any kind of misbehave as concerned in paragraphs of the communication.

1736. On 12 April 2009, Sub-Inspector Rajesh Chaudhary of the District Police Office in Sunsari formed an inquiry committee in the command of Inspector Devi Prasad Baral to probe into the incident as demanded by the complainants. The inquiry committee in its report found that the group of journalists and human rights activists were beaten and ill-treated by the agitating mob of women staging a demonstration in front of the Chamdi Police station and their vehicle was vandalized. No evidence was found to support the complaints against Sub-Inspector Rajesh Chaudhary and other police personnel.

1737. Besides the findings of the inquiry, a large number of ordinary people witnessing the incident at the area police office and its vicinity that day submitted a mass appeal to the Home Minister as well as other relevant Police offices in the district explaining what they saw during the incident. This spontaneous appeal of the ordinary people in the locality signed by 108 people, including people from all sectors of society such as local leaders of all political parties, office bearers of NGOs and INGOs and local civil society representatives present that day, who were the witness of the situation, explained the real scene of the incident.

1738. In the submission, they candidly explained that the police had to use slight batons for self-defence and for the protection of the Area Police Station as well as for the protection of the property set ablaze by the violently agitating protestors. They have also outlined how the protestors, including those claiming to be members of WOREC and INSEC of Sunsari district and other women participating in the agitation, intentionally and wantonly started to violently destroy the Area Police Office and the property in the area. In their written submission, the above-mentioned representatives of society have also demanded to punish those involved in the violent demonstration in the name of human rights defenders. The signed submission was sent to all relevant Government offices, police offices and national and international human rights organizations based in Nepal.

1739. In the light of the information above, the Government submitted that the facts alleged in the communication are conveniently fabricated and remain utterly misleading, and that on the basis of the complaint lodged by the alleged victims, the authorities quickly responded by constituting a probe committee, whose results are explained above.

Observations

1740. The Special Rapporteur regrets that at the time of finalizing the present report, the Government had not transmitted a reply to a number of communications sent in 2008, 2007, and 2006. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

1741. The Special Rapporteur is particularly distressed at the killing of Ms. Uma Singh. He urges once again the Government to conduct thorough investigations and prosecute the perpetrators. He remains seriously concerned about the situation of Ms Manika Jha, and similarly urges the Government to bring the perpetrators to justice.

Nicaragua

Llamamiento urgente

1742. El 11 de diciembre de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. **Leonor Martínez**, integrante de la Coalición de Jóvenes Nicaragüenses.

1743. La Coalición de Jóvenes Nicaragüenses realiza actividades para la defensa y la promoción de los derechos de los jóvenes.

1744. Según las informaciones recibidas, el 20 de noviembre de 2009, un hombre se habría acercado a la Sra. Martínez mientras salía de su casa. El hombre le habría dicho “ya sabes que te va a pasar si te andas metiendo te vamos a matar”. La Sra. Martínez habría reconocido al hombre y lo habría identificado como uno de los agresores de un incidente ocurrido el 22 de octubre de 2009 en el cual habría sido agredida físicamente cuando regresaba a casa después de haber participado en una conferencia donde habría hablado sobre los derechos humanos y las restricciones a las libertades fundamentales.

1745. En aquella ocasión tres hombres le habrían amenazado con arma y la habrían golpeado violentamente rompiéndole el brazo. Asimismo, habrían amenazado con matarla y a su familia si sigue con sus actividades a favor de los jóvenes de Nicaragua. Se alegó que los agresores tienen vínculos con el Frente Sandinista de Liberación Nacional (FSLN).

1746. Después de este incidente la Sra. Martínez habría recibido muchos mensajes de textos amenazantes en su teléfono celular.

1747. La Sra. Martínez habría denunciado el ataque y las amenazas ante la policía pero supuestamente no se habría iniciado ninguna investigación en relación con el caso.

1748. Se alegó que la situación difícil que está viviendo la Sra. Martínez actualmente podría estar relacionada con el hecho de que recientemente varios sectores de la sociedad civil habrían expresado su inconformidad con la resolución reciente de la Sala Constitucional que permite la reelección del Presidente Ortega y de algunos alcaldes sandinistas. Asimismo, se alegó que esta decisión es inconstitucional y que afecta el sistema democrático del país. Supuestamente, desde que se expresó esta inconformidad, varios defensores de derechos humanos críticos del Gobierno habrían sido el objeto de amenazas, agresiones y actos de intimidación.

1749. Se expresó temor que el ataque y las amenazas de muerte contra la Sra. Martínez podrían estar relacionados con las actividades que realiza como integrante de la Coalición de Jóvenes Nicaragüenses en defensa de los derechos humanos y busque sofocar la libertad de expresión de los defensores de los derechos humanos de Nicaragua. Asimismo, se expresó una profunda preocupación por la integridad física y psicológica de la Sra. Martínez así como por la de los

demás miembros de la Coalición de Jóvenes Nicaragüenses. El Gobierno de su Excelencia tiene la responsabilidad de investigar de manera exhaustiva las violaciones cometidas contra los defensores de derechos humanos y enjuiciar a los responsables. Asimismo, el Gobierno de su Excelencia debe condenar firmemente cualquier ataque contra un defensor de derechos humanos, tomando la oportunidad para reconocer la importancia de su labor.

Llamamiento urgente

1750. El 11 de marzo de 2010, el Relator Especial envió un llamamiento urgente en relación con la denuncia penal contra **los señores Carlos Larios, Pablo Avellán y Francisco Chamorro y la señorita Daysi Ramírez Larios.**

1751. Según las informaciones recibidas, el 9 de febrero de 2010 el Consejo Supremo Electoral (CSE) de Honduras presentó denuncia contra la señorita Daysi Ramírez Larios por falsificación de documentos públicos; así como contra los señores Carlos Larios, Pablo Avellán y Francisco Chamorro, periodistas y Director, respectivamente, del medio “El Nuevo Diario” en mérito a la publicación periodística de su investigación relativa a una red de prostitución en Managua la que contaría con apoyo de funcionarios del CSE.

1752. Según surge de los informes los señores Larios y Avellán habrían verificado la existencia de una red de proxenetas que explotarían sexualmente a jóvenes menores de edad. Valiéndose de contactos en el CSE los referidos proxenetas lograrían la expedición de cédulas de identidad falsas en favor de las jóvenes quienes luego ejercerían la prostituciones en bares la ciudad.

1753. Los periodistas habrían entonces solicitado el concurso de la sobrina del señor Larios, la joven Daisy Ramírez Larios, a fin de colaborar con ellos y llevar a luz esta red criminal. La joven Ramírez Larios habría así concurrido al CSE y obtenido un comprobante de cédula en trámite.

1754. El pasado 7 de febrero, y por un periodo de 3 días, “El Nuevo Diario” habría publicado la investigación con la descripción de la red de proxenetismo y la presunta complicidad de funcionarios del CSE.

Observaciones

1755. El Relator Especial lamenta que al finalizar este informe, no se había recibido respuestas a las comunicaciones del 11 de marzo de 2010, del 11 de diciembre de 2009, del 26 de noviembre de 2008 y del 8 de octubre de 2008. El Relator Especial considera que al responder a las comunicaciones representa un elemento fundamental para la cooperación de los Estados con el mandato, es por ello que insta al gobierno nicaragüense a que le proporcione una respuesta tratando los asuntos mencionados.

Niger

Appel urgent

1756. Le 12 août 2009, le Rapporteur spécial, conjointement avec le Vice-président Rapporteur du Groupe de Travail sur la détention arbitraire et la Rapporteuse spéciale sur la situation des défenseurs des droits de l’homme, a envoyé un appel urgent sur la situation de

M. Marou Amadou, président du Front uni pour la sauvegarde des acquis démocratiques (FUSAD), de CROISADE, membre du bureau national du Réseau des organisations pour la transparence et l'analyse budgétaire - Publiez ce que vous payez, et représentant de la société civile à la Commission électorale nationale indépendante (CENI). Selon les informations reçues :

1757. Le 10 août 2009, M. Marou aurait été arrêté par la police judiciaire pour “atteinte à la sûreté de l'Etat”, suite à sa déclaration faite la veille à l'occasion du dixième anniversaire de la Constitution du Niger, dans laquelle il aurait dénoncé la corruption alléguée au sein du régime et rappelé l'arrêt de la Cour constitutionnelle du 12 juin 2009 déclarant illégal le référendum tenu le 4 août 2009. M. Marou aurait été placé sous mandat de dépôt et incarcéré à la prison civile de Niamey.

1758. Le 11 août, M. Marou aurait comparu devant le Tribunal de grande instance (TGI) “hors classe” de Niamey dans le cadre de la procédure de flagrant délit pour “atteinte à la sûreté de l'Etat”, pour être finalement relaxé. En fin d'après-midi, alors qu'il s'apprêtait à quitter la prison civile de Niamey, M. Marou aurait été placé de force dans deux véhicules 4x4 des Forces nationales d'intervention et de sécurité et conduit vers une destination inconnue. Selon plusieurs sources, les véhicules auraient pris la route de Tillabéri ; il semblerait que M. Marou soit détenu à la prison de haute sécurité de Koutoukalé.

1759. Ces événements font suite à une première arrestation de M. Marou par la police le 29 juin 2009 à Niamey et son placement en détention dans les locaux de la police judiciaire de Niamey, après qu'il ait fait référence le même jour lors d'une émission télévisée à une déclaration du Front de défense de la démocratie invitant l'armée à respecter l'article 13 de la Constitution du Niger, qui prévoit que “nul n'est tenu d'exécuter un ordre manifestement illégal”. Le 30 juin, M. Marou aurait été accusé de “provocation à la désobéissance des forces de défense et de sécurité”, de “complot contre l'autorité de l'Etat” et d'“entreprise de démoralisation de l'armée” ainsi que de “flagrant délit de presse”. Le 2 juillet, M. Marou aurait été libéré. M. Marou resterait poursuivi pour “provocation à la désobéissance des forces de défense et de sécurité”, de “complot contre l'autorité de l'Etat” et d'“entreprise de démoralisation de l'armée”, respectivement sur la base des articles 76, 78 et 79 du Code pénal nigérien, ainsi que de “flagrant délit de presse” sur la base de l'article 48 de l'Ordonnance portant régime de la liberté de la presse. M. Marou encourrait la peine capitale pour les charges précitées.

1760. Des craintes sont exprimées quant au fait que les trois arrestations et incarcérations successives de M. Marou, et les charges qui pèsent contre lui, soient liées à ses activités légitimes et pacifiques de défense des droits de l'homme. En raison de sa détention incommunicado, des craintes sont exprimées pour l'intégrité physique et morale de M. Marou.

Appel urgent

1761. Le 28 août 2009, le Rapporteur spécial, conjointement avec le Vice-président Rapporteur du Groupe de Travail sur la détention arbitraire et la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, a envoyé un appel urgent au Gouvernement sur la situation de **M. Wada Maman**. M. Maman est le secrétaire général de l'Association nigérienne de lutte contre la corruption (ANLC) et du Front Uni pour la Sauvegarde des Acquis Démocratiques (FUSAD), un réseau d'organisations non gouvernementales établi dans le but de préserver les structures démocratiques dans le contexte de la crise politique actuelle au Niger. Il est également

membre de la coalition Publiez Ce Que Vous Payez au Niger, connue sous le nom de ROTAB. Selon les informations reçues :

1762. Le 22 août 2009, M. Maman aurait été arrêté par des membres de la Garde Républicaine à Niamey alors qu'il se rendait chez un membre de l'ANLC. Il serait actuellement détenu au poste de police de Niamey sans qu'aucune charge n'ait été retenue contre lui. M. Maman n'aurait pas eu accès à un avocat. Il lui serait reproché d'avoir participé à une manifestation non autorisée organisée le 22 août pour protester contre la réforme constitutionnelle autorisant le président Mamadou Tandja à briguer un nouveau mandat présidentiel. M. Maman aurait nié avoir participé à ce rassemblement au cours duquel dix personnes auraient été arrêtées.

1763. Des craintes sont exprimées quant au fait que l'arrestation de M. Maman soit liée à ses activités non violentes de promotion et de protection des droits de l'Homme.

Observations

1764. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse aux communications en date du 28 août 2009, 12 août 2009, du 19 décembre 2007, 26 octobre 2007, 27 juillet 2007, 17 novembre 2006, 11 septembre 2006, 10 août 2006, 12 avril 2006, et 25 novembre 2005, 7 avril 2005 et 18 août 2004. Il exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celle-ci. Il considère les réponses à ses communications comme partie intégrante de la coopération des gouvernements avec son mandat.

Oman

Letter of allegations

1765. On 31 December 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations regarding the situation of **Mr. A'sem Al-Sheedi**. Mr. Al-Sheedi is a journalist working for the "Oman daily", an Arabic language daily newspaper.

1766. According to the information received, on 8 December 2009, Mr. Al-Sheedi was allegedly sued by the general director of the Police and Customs in Oman for the publication of an article in the "Oman daily" on 7 December 2009 denouncing police corruption.

1767. On 12 December 2009, Mr. Al-Sheedi was summoned by the Prosecution Office and charged with "slander against the police apparatus" and "false testimony", for his refusal to reveal his source of information.

1768. Concern was expressed that the charges against Mr. Al-Sheedi might be directly related to his legitimate work in defense of human rights.

Response from the Government

1769. At the time this report was finalized, the reply of the Government of 23 March 2010 had not been translated.

Observations

1770. The Special Rapporteur thanks the Government for the response provided to his communication.

Pakistan

Urgent appeal

1771. On 8 January 2009, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary killings, sent an urgent appeal to the Government concerning **three reported attacks on journalists in November 2008**, resulting in the killing of two journalists and the attempted killing of two others.

1772. According to information received, on 3 November 2008, Mr. Abdul Razzak Johra, investigative reporter with the Royal TV network, was dragged from his home in Mianwali district, in Punjab province, by a group of six armed and masked men. Mr. Johra was then shot six times and died as a result of his injuries. A report written by Mr. Johra on drug trafficking was broadcast the day before his murder. Mr. Johra had previously worked on cases involving drug trafficking in his region and had received death threats on a number of occasions.

1773. On 8 November 2008, Mr. Qari Muhammad Shoaib, a journalist with the daily newspapers Khabar Kar and Azadi, was shot dead at the wheel of his car by soldiers in Mingora in the Swat Valley. Mr. Shoaib was returning home with a family member when soldiers reportedly opened fire without warning. The passenger travelling with Mr. Shoaib indicated that they had received no signal to stop the car. A statement issued by the military after the incident claimed that Mr. Shoaib had received several warnings to pull his car over before the security forces opened fire on the vehicle. Soldiers were reportedly patrolling the area after receiving information of a threatened suicide attack.

1774. On 14 November 2008, Mr. Sami Yousafzai, special correspondent for U.S. magazine Newsweek in Peshawar, and Ms. Motoki Yatsukura, Pakistan Bureau Chief of Japanese daily newspaper Asahi Shimbun, were shot while resisting an attempted abduction near Peshawar. Mr. Yousafzai and Ms. Yatsukura were seriously injured in the attack and were taken to a hospital in Islamabad where they were treated for their injuries.

1775. The mandate-holders urged the Government to take effective measures to prevent further killings of journalists, and emphasized the importance of rapidly identifying, arresting and bringing to justice the persons responsible for the killings and the attempted abduction, both as material perpetrators and as instigators. The mandate-holders stated that they were particularly concerned about the safety of journalists working in the border area of Pakistan and Afghanistan, in Pakistan's North-West Frontier Province (NWFP).

Urgent appeal

1776. On 17 August 2009, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the

Government regarding the abduction of Mr. **Ehsan Arjumandi**. Mr. Arjumandi is an advocate for the human rights of the Baloch people in Pakistan, Afghanistan and Iran. He has organized pro-Baloch protests in Norway, in particular in relation to the continuous disappearances taking place in Balochistan.

1777. According to information received, on 7 August 2009, Mr. Arjumandi was abducted in Pakistan, when the bus that he was travelling on was stopped between Karachi and Mand. Mr. Arjumandi, who lives in Oslo, Norway, went to Pakistan a couple of weeks earlier to visit relatives in Turbat and Mand. He left Mand early in the morning of the 7 August 2009 on an intercity bus named 'Aslam Dandahi Coach'. The bus was stopped by a group of men, some of whom were wearing official police uniforms, when it reached a check point at Zero point Coastal Highway about 12km away from Uttal city. Some of the men in the group wearing civilian clothing reportedly boarded the bus and asked Mr. Arjumandi to identify himself. They then searched him, covered his head with a blanket and took him away in an unmarked vehicle, which was escorted by at least two other vehicles. Mr. Arjumandi has not been heard from since. It is alleged that the Pakistani intelligence service, the ISI, is responsible for the abduction.

1778. Both Mr. Arjumandi's lawyer, Mr. Abdul Jalil Raisi, and the owner of the bus company with which Mr. Arjumandi was travelling, allegedly tried to report the incident at the Bagdadi district police station in Karachi, but the police reportedly refused to receive the report.

1779. Serious concern was expressed that the abduction of Mr. Arjumandi may be related to the activities that he has carried out in defense of the human rights of the Baloch people. Further concern was expressed for the physical and psychological integrity of Mr. Arjumandi who suffers with serious health problems and is in need of daily medication.

Response from the Government

1780. In a letter dated 18 August 2009, the Government responded to the communication sent on 17 August 2009. In its response the Government acknowledged receipt of the communication to the Special Rapporteur. The letter further noted that in the Permanent Mission's view the matter referred to in the communication does not pertain to the mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

Letter of allegations

1781. On 2 September 2009, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary killings, sent an urgent appeal to the Government in relation to the killings of Mr. **Janullah Hashimzada**, chief editor of Afghanistan's Shamshad Television based in the Pakistani city of Peshawar, and Mr. **Sadiq Bacha Khan**, correspondent for Aaj TV and former president of the Mardan Press Club. These killings followed lethal attacks against three journalists in the North-West Frontier Province (NWFP) in the first two months of 2009: Mr. **Muhammad Imran**, trainee cameraman with Express TV, Mr. **Saleem Tahir Awan**, freelance reporter with the local dailies Eitedal and Apna Akhbar, and Mr. **Musa Khankhel**, reporter for Geo TV and the English-language newspaper The News.

1782. According to information received, on 24 August 2009, Mr. Janullah Hashimzada was travelling from the Afghan border of Torkham to Peshawar in a minibus when the vehicle was intercepted by masked assailants, reportedly in a Toyota Corolla. They allegedly forced the minibus to stop and fired at Mr. Hashimzada with assault rifles at least six times. Another employee of Shamshad television, Mr. Ali Khan, was seriously injured in the attack. Both journalists were immediately taken to the Civil Hospital in Jamrud, where the doctors declared Mr. Hashimzada dead on arrival. Mr. Khan is reportedly in Hayatabad Medical Complex in Peshawar. Reports claim that Mr. Hashimzada had told journalists in Peshawar that he had been receiving threatening phone calls and that he was being followed. It has been suggested that he was targeted for possessing too much information regarding the militants, the Taliban and the Pakistani intelligence agencies.

1783. On 14 August 2009 at around 7:20 a.m., Mr. Sadiq Barcha Khan was ambushed and shot at least 15 times outside the Aaj TV office in Mardan, a town in NWFP. He reportedly died as a result of his injuries on the way to a hospital in Peshawar. Reports claim that Mr. Khan was assigned to cover the funeral of an army official who had been killed days earlier by drug traffickers in another region.

1784. Previously, on 4 January 2009, Mr. Muhammad Imran and Mr. Saleem Tahir Awan were killed when a suicide bomber blew himself up in front of the Government Polytechnic College in Dera Ismail Khan in NWFP.

1785. On 18 February 2009, Mr. Musa Khankhel was shot dead by unidentified gunmen while on assignment covering a peace march led by Muslim cleric Sufi Muhammad in the Swat valley.

1786. Concerns regarding the safety of journalists working in the border area of Pakistan and Afghanistan were reiterated, particularly those who are routinely exposed to violence and intimidation. According to reports, in the last two years alone 11 journalists had been killed in Pakistan, six of them in the NWFP.

Responses from the Government

1787. In a first letter dated 3 September 2009, the Government informed that the letter had been transmitted to the capital.

1788. In a second letter dated 13 October 2009, the Government informed that the matter of alleged killings of five journalists was referred to concerned law enforcement and administrative authorities in Pakistan, and responded as follows.

1789. It is informed that these journalists were mainly killed in those areas where extremists challenged the writ of the Government in the recent past. Accordingly, the Government had to launch law enforcement operation on popular demand against these extremists. It is important to note that activities of the journalists supported State-run enforcement operation, in particular in shaping public opinion against the extremists.

1790. It is believed that these journalists, namely Mr. Jan Ullah Hashimzada of AAJ TV, and Mr. Musa Khan Khel of GEO TV, were killed by the extremists as the journalists made an extra effort to expose their brutal actions among the local communities, while Mr. Muhammed Imran and Mr. Saleem Tahir Awan died in a suicide blast. Lastly, Mr. Sadiq Bacha was killed on the basis of previous enmity between the parties. Brief particulars of these cases are given below.

1791. Jan Ullah Hashimzada: on 24 August 2009, some unknown persons fired at Jan Ullah Hashimzada in Jamrud (tribal territory), as a result of which Jan Ullah Hashimzada died. It is believed that Mr. Hashimzada was killed by the extremists.

1792. Sadiq Bacha: on 14 August 2009 at 07:00 hours, Changeez Khan and Babar Khan, sons of Tahir Khan of Mohallah Bajauri Hoti, District Mardam killed Sadiq Bacha of "AAJ TV". As per investigation, it was learnt that there was previous enmity on family issues between the parties and the accused party took revenge by killing Mr. Bacha. The accused made their escape from the spot after occurrence. As far as killing by drug traffickers is concerned, no evidence could be verified. A case vide FIR No.623 dated 14 August 2009 (u/s 302/324/34 PPC) has been registered at Police Station Hoti Mardan and efforts/investigations are underway to apprehend the culprits.

1793. Musa Khan Khel: on 18 February 2009, upon reaching agreement between the Provincial Government and Maulana Sofi Muhammad (TNSM Chief) to implement "Shari Nizam-i-Adal Regulations", Maulana Sofi Muhammad led a procession to Matta Swat for restoration of peace in the areas. A large number of members of print and electronic media had assembled for coverage of the event, including Musa Khan Khel. Mr. Khel was kidnapped by unidentified men who took him to Detphani, where they shot him dead. At that time, the area was in de-facto control of extremists. A case FIR No.17 dated 18 February 2009 (u/s/302 PPC) was registered at Police Station Matta. The case is still under investigation and the incident seems to be the misdeed of extremists and target killing. It has been learnt that altercations took place between Musa Khan Khel and Muslim Khan, the extremists' Spokesman, several times on phone for fair reporting by the former.

1794. Muhammad Imran and Saleem Tahir Awan: on 14 January 2009, a heavy police contingent was staying in Poly-Technical College Dera Ismail Khan in connection with Muharram (religious procession) duty. A suicide blast took place in a hotel near the college. A number of Police men and public were killed and injured including Tahir (a columnist) of Basti Ustrana DI Khan. Muhammad Saleem Tahir was also serving as Senior Clerk in Naib Tehsildar office Pahar Pur DI Khan. A case vide FIR No.6 dated 4 January 2009 (u/s 302/324/353/120-B/427 PPC/3 ESA/7ATA) was registered at Police Station Cantonment DI Khan. The case is still under investigation.

1795. Most of the cases, referred above, took place where the extremists attempted to challenge Government's writ and, inter alia, tried to suppress voice of the local communities. Accordingly, the Government had to start full-fledge law enforcement operation in order to protect common civilians including journalists.

1796. It is important to note that local communities of those areas hold the extremists responsible for such killings. However, at the same time, the relevant authorities are conducting comprehensive and impartial investigation into these cases in order to identify and bring to justice those responsible.

1797. The Government of Pakistan reiterates its commitment to protecting journalists and prosecuting those responsible of killings or death threats against them in order to ensure the right of freedom of opinion and expression. We will continue our efforts in this regard.

1798. Relevant authorities in Pakistani are in process of examining alleged abduction and killing of persons, as referred in your earlier communication dated 8 January 2009 (Mr. Abdul Razzak Johra, Mr. Qari Muhammad Shoaib, Mr. Sami Yousafzai and Ms. Matoki Yatsukura). Details will be shared with the Special Procedures upon receipt.

Observations

1799. The Special Rapporteur wishes to thank the Government for the responses provided to his communications, but regrets that at the time of finalizing the present report, the Government had not transmitted a reply to his communications sent on 8 January 2009, 22 September 2008, 22 May 2008, 18 January 2008, 23 November 2007, 6 November 2007, 8 June 2007, 26 September 2006, 26 June 2006, 12 May 2006 (two communications), 20 March 2006, 30 January 2006, 19 December 2005, 24 August 2005, 23 August 2005, 18 May 2005, 3 May 2005, 22 November 2004, 9 November 2004, 21 July 2004, and 28 April 2004. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

Peru

Llamamiento urgente

1800. El 23 de enero de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator especial sobre la promoción y protección de los derechos humanos en la lucha contra el terrorismo, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con el orden de continuar investigando por terrorismo a 35 defensores del medioambiente en Piura, Perú bajo la legislación de la Dirección Nacional contra el Terrorismo (DIRCOTE). Los 35 defensores son : Sr. **Javier Jahncke Benavente**, miembro de Fedepaz / Red Muqui, Sra. **Julia Cuadros Falla**, miembro de la CooperAcción / Red Muqui, Sr. **Juan Aste Daffós**, del Grupo Andes / Red Muqui, el Sr. **Nicanor Alvarado**, del Vicaría del Medioambiente y del Vicariato Apostólico de Jaén, Sr. **Carlos Martínez Solano**, Alcalde Provincial de San Ignacio y Presidente del Frente por el Desarrollo Sostenible de la Frontera Norte del Perú (FDSFNP), Sr. **Humberto Marchena**, Alcalde Provincial de Ayabaca, Sra. **Deyber Flores Calle**, Teniente Alcalde de la Municipalidad Provincial de Ayabaca, Sr. **Euler Jave Díaz**, Gerente Municipal de la Municipalidad Provincial de San Ignacio (Procesado por terrorismo y absuelto), Sr. **Práxedes Llagsahuanca**, ex Alcalde Provincial de Ayabaca, Sr. **Fidel Torres Guevara**, miembro de Piura, Vida y Agro / Red Regional, Sr. **Edward Gómez Paredes**, coordinador de la Red

Regional - Piura, Sr. **Quique Rodríguez Rodríguez**, Asesor Legal del FDSFNP, Sr. **Wilson Ibáñez Ibáñez**, del Frente de Defensa del Medioambiente de Huancabamba, Sr. **Servando Aponte Guerrero**, Presidente de la Comunidad Campesina de Segunda y Cajas, Sr. **Cenesio Jiménez Peña**, Presidente de la Comunidad Campesina de Yanta - Ayabaca, Sr. **Alfonso Meléndrez Clemente**, ex Presidente de la Comunidad Campesina Segunda y Cajas, Sr. **Eusebio Guerrero**, ex Vice Presidente de la Comunidad Campesina de Segunda y Cajas, Sr. **Alfonso Huayama Guerrero**, Presidente interino del Comité Provincial de Rondas Campesinas de Huancabamba, Sr. **Pascual Rosales**, ex Presidente de la Central Provincial de Rondas Campesinas de Ayabaca - Sede Hualcuy, Sr. **Edilberto Neyra Alberca**, ex Fiscal de la Comunidad Campesina de Segunda y Cajas, Sr. **Mario Tabra**, del Frente de Defensa del Medioambiente de Ayabaca, Sr. **Manuel Campos Ojeda**, Dirigente Huancabamba, Sr. **Edgardo Adrianzén Ojeda**, ex Presidente de la Central Provincial de Rondas Campesinas de Huancabamba y Sr. **Miguel Palacín Quispe**, ex Presidente de la Confederación Nacional de Comunidades Afectadas por la Minería (Conacami), **Valentín Quevedo**, **Benito Guarnizo Garcia**, **Magdiel Carrion Pintado** (Conacami), **Gregorio Santos Guerrero**, **Edilberto Correa Meza**, **Otilio Campos Guerrero**, **Serbando Aponte Guerrero**, **Sixto Alberca Cruz**, **Joaquin Chinch Julia**, **Anselmo Moreto Sandoval**, **Juan Puma Huaman**. Ellos son defensores del medioambiente, ambientalistas, activistas de derechos humanos, alcaldes y autoridades comunales.

1801. El 24 de marzo de 2008 la Asociación Civil Frente de Unidad de la Comunidad Campesina de Segunda y Cajas (FUCSC) hizo una denuncia por “delito de terrorismo y otros” contra dichos 35 defensores. Según las informaciones recibidas, la FUCSC es una organización creada por personas que no pertenecen a la comunidad de Segunda y Cajas. Dichos defensores de derechos humanos apoyaron una consulta vecinal el 16 de septiembre de 2007 en el que se rechazaron las operaciones de la minería Río Blanco Copper S.A, en la comunidad de Segunda y Cajas, en la provincia de Ayabaca, Piura (al norte del Perú), para que, en conformidad con lo previsto por el Convenio N°169 de la Organización Internacional del Trabajo (OIT) sobre Pueblos Indígenas y tribales en países independientes, ratificado por el Perú en 1994, se consultara a los pueblos afectados directamente por esas actividades mineras que podrían tener graves consecuencias ambientales, sociales y económicas sobre sus comunidades. En el mes de noviembre del 2008, el caso por “delito de terrorismo y otros” contra los 35 defensores fue archivado.

1802. Según las informaciones recibidas, hacia el 15 de diciembre de 2008, el Fiscal Superior habría dictaminado que el caso contra los defensores del medio ambiente sea transferido a la DIRCOTE – PIURA para continuar con las investigaciones, y eventualmente denunciar el caso ante el poder judicial. Lo anterior, según los informes, habría sido debido a una apelación por parte de los denunciados de la FUCSC contra la decisión del Fiscal de la instancia inmediata inferior de archivar el proceso contra los 35 defensores de derechos humanos.

1803. Esta decisión de continuar con las investigaciones por terrorismo se produce tras la publicación por el gobierno, el 27 de diciembre del 2008, del Decreto Supremo N° 024 que declara de “necesidad pública” la concesión de 35 denuncios mineros al consorcio chino Zijin, propietario del proyecto minero Río Blanco Cooper S.A.

1804. Se alegó que la decisión de reabrir el caso contra los 35 defensores por parte del Fiscal Superior podría estar relacionada con sus actividades legítimas en la defensa del medio ambiente frente a una actividad que pone en riesgo los recursos naturales en su comunidad. En vista de lo aquí resumido, se expresó preocupación por el derecho a un debido proceso de los 35 defensores.

Llamamiento urgente

1805. El 1 de mayo de 2009, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator especial sobre la independencia de los magistrados y abogados, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con las amenazas de muerte contra el Sr. **Francisco Soberón**, la Sra. **Gloria Cano** y los Sres. **Carlos Rivera** y **Ronald Gamarra**. El Sr. Francisco Soberón es Director Ejecutivo de la Asociación Pro Derechos Humanos (APRODEH), organización que ha estado muy involucrada en el proceso del juicio al ex-Presidente Alberto Fujimori. En cuanto a la Sra. Gloria Cano y los Sres. Carlos Rivera y Ronald Gamarra, son abogados de la parte civil en el juicio contra el ex-Presidente.

1806. La Sra. Gloria Cano y APRODEH ya fueron objeto de varias comunicaciones de la entonces Representante Especial del Secretario-General para los defensores de los derechos humanos, quien envió varias comunicaciones, con fechas 10 de enero de 2008, 28 de febrero de 2005 y 22 de noviembre de 2004. El Sr. Soberón fue objeto de una comunicación enviada el 16 de noviembre de 2005.

1807. La APRODEH es un colectivo de personas comprometidas con la lucha por la plena vigencia de los derechos humanos en el Perú, quienes asumen denuncias y la defensa de las víctimas en el plano nacional e internacional. Asimismo, desarrollan campañas sistemáticas en torno a los casos más graves de violaciones de derechos humanos.

1808. Según las informaciones recibidas, el 6 de abril del 2009 a las 12:48 de la tarde, a la víspera de la condena al ex-Presidente Alberto Fujimori, APRODEH habría recibido una llamada en su sede. Un hombre les habría dicho lo siguiente: “Los familiares de los terroristas, hemos estado siguiendo el trabajo de APRODEH, con lo de mañana, que los señores Soberón, Gamarra, Cano y Rivera que (sic) se den por muertos”. Cabe destacar que esta llamada habría entrado directamente al área legal de la organización APRODEH.

1809. Se expresó temor que la amenaza en contra de los Sres. Francisco Soberón, Carlos Rivera y Ronald Gamarra y la Sra. Gloria Cano podría estar relacionada con su trabajo en el proceso del juicio al ex-Presidente Alberto Fujimori. En vista de lo aquí resumido se expresó preocupación por la integridad física y psicológica de las personas mencionadas.

Llamamiento urgente

1810. El día 26 de agosto de 2009, el Relator especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con la intimidación y las amenazas de muerte contra el Sr. **Andrés Luna Vargas**. El Sr. Luna Vargas es el presidente de la Convención Nacional del Agro Peruano (CONVEAGRO) y el presidente colegiado del Frente de Defensa del Agua y de los Recursos Naturales en la región de Piura.

1811. Según las informaciones recibidas, a finales de julio de 2009, el Sr. Luna Vargas habría recibido varias amenazas de muerte por medio del teléfono celular de un joven que trabaja con él. El Sr. Luna Vargas estaba en Lima cuando el joven habría recibido cuatro llamadas de un hombre no identificado que pedía la ubicación del Sr. Luna Vargas. Cuando el joven le negó información sobre su paradero, el hombre habría amenazado de muerte al Sr. Luna Vargas y al joven.

1812. No es la primera vez que el Sr. Luna Vargas es objeto de intimidaciones y amenazas. En marzo de 2009, su granja habría sido dañada en un incendio que supuestamente habría sido causado intencionalmente. Además, en octubre de 2008, tres hombres con pasamontañas le habrían atacado cuando se encontraba en un taxi. Le habrían amenazado, insultado y golpeado antes de robar sus pertenencias y dejarlo en la calle.

1813. Se expresó temor que la intimidación y las amenazas de muerte contra el Sr. Luna Vargas podrían estar relacionadas con el trabajo que realiza en defensa de los derechos humanos y en particular con sus actividades para proteger el medio ambiente y las tierras agrícolas en la región de Piura.

Observaciones

1814. El Relator Especial lamenta que al finalizar este informe, no se había recibido respuestas a varias comunicaciones enviadas en 2009, 2008, 2007, 2006, 2005 y 2004. El Relator Especial considera que al responder a las comunicaciones representa un elemento fundamental para la cooperación de los Estados con el mandato, es por ello que insta al gobierno peruano a que le proporcione una respuesta tratando los asuntos mencionados.

Philippines

Letter of allegations

1815. On 7 April 2009, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal concerning the killing of Mr. **Eliezer Billanes**, a human rights defender and anti-mining activist. Mr. Billanes was among others the Chairman of Socksargends – AGENDA, a regional anti-mining alliance in southern Mindanao; the Chairman of South Cotabato Alliance for Nationalism and Democracy (SOCPAND), the Secretary-General and Program Director of Samahan ng Magsasaka sa Timog Kutabato (SAMATIKU).

1816. According to the information received, on 9 March 2009, at approximately 4pm in the afternoon, Mr. Eliezer Billanes was shot dead in the public market of Koronadal City, South Cotabato, Mindanao Island, by two unidentified masked gunmen riding a scooter.

1817. On the day of the murder, Mr. Billanes had attended a meeting with Lt. Eduardo Florentino, the commander of the 27th Infantry Battalion's Charlie Company, based in Tupi, South Cotabato, and three other officials. The subject of the meeting had been the personal security of Mr. Eliezer Billanes, who had received several threats, including allegedly from the military, due to his vocal stance against Sagittarius Mines Inc. During this meeting, Mr. Billanes had voiced strong opposition to the presence of the 27th Infantry Battalion in his village.

1818. The police chief of Koronadal City, Superintendent Froilan Quidilla has opened an investigation into the murder of Mr. Billanes. South Cotabato Governor Daisy Avance-Fuentes declared that she would personally look into the murder of Mr. Billanes. Lt Eduardo Florentino of the 27th Infantry Battalion denied any hand in the killing, in an interview for Radio Mindanao Network. He also said that the military had some leads in the case, but “could not reveal them for fear of jeopardizing the ongoing operation”.

1819. While not prejudging the accuracy of these allegations, concern was expressed that the killing of Mr. Eliezer Billanes might be in connection with his peaceful activities in defence of human rights, especially his environmentalist and anti-mining advocacy.

Response from the Government

1820. In a letter dated 14 April 2009, the Government indicated that the case is under joint investigation by the Philippine National Police of South Cotabato and Koronadal City. Authorities are taking all possible measures for the early solution of the case, to establish the identity of suspects, and to put those perpetrators to justice. Any updates/developments concerning the case will be later transmitted.

Urgent appeal

1821. On 13 July 2009, the Special Rapporteur, together with by the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding Ms. **Aurora Broquil**, Ms. **Emily Fajardo**, Mr. **Francisco Honra**, Mr. b, Mr. **Domingo Alcantara** and Mr. **Archie Bathan**, six human rights defenders who campaign against the Bataan nuclear power plant.

1822. According to the information received, on 26, 27 and 28 June 2009, Ms. Aurora Broquil, Ms. Emily Fajardo, and Mr. Francisco Honra received a series of death threats on their mobile phones from the same number.

1823. On 27 May 2009, Mr. Rafel Limcumpao, Mr. Domingo Alcantara and Mr. Archie Bathan, were arrested by approximately 20 police and military personnel from the Philippine National Police 303rd Provincial Mobile Group, a unit from the Military Intelligence and the 3rd Infantry Battalion. The three men were forced to lie down facing the floor. They were kicked and hit with rifles while being searched. They were then handcuffed, dragged to two vehicles and taken to the Philippine National Police 303rd Provincial Mobile Group in Camp Tolentino.

1824. While in the Camp, they were tortured while being questioned and the beatings lasted until 2:00 a.m. the next day. Mr. Alcantara was beaten and suffocated with a thick plastic bag. The police also hit Mr. Bathan in the face with a solid object while he was blindfolded, performed Russian roulette and hit his ears on several occasions. They were told to admit that they were members of a rebel group.

1825. The following day, the three victims were presented before the press, and the police claimed that they were the leaders of a rebel group. However, no formal charges had been filed at that time. Later that day, they were taken to the Office of the Prosecutor, where they were charged on three counts of attempted murder, illegal possession of explosives and firearms.

1826. Prior to the arrest, Mr. Limcumpao, Mr. Alcantara and Mr. Bathan had been planning to organize campaigns to protest the possible renewed operation of the Bataan nuclear power plant in the area. The group was opposed to the operation as it would allegedly have serious environmental and health implications to local residents

Urgent appeal

1827. On 7 August 2009, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding the killings of Mr. **Crispin Perez Jr.**, Mr. **Antonio Castillo**, Mr. **Jonathan Petalvero**, Mr. **Godofredo Linao**, as well as alleged threats against Mr. **Mario Alviso**.

1828. According to information received, on 9 June 2009 at around 10:00 a.m, Mr. Crispin Perez Jr., a lawyer, former vice-governor of Occidental Mindoro province and a radio commentator at the local government-owned radio station dwDO, was shot by an unknown gunman outside his home in San Jose City in Occidental Mindoro province. He later died in hospital as the result of his injuries. Shortly before his death, Mr. Perez had criticised local mining activities and the signing of a supply contract between a local cooperative and a private power firm.

1829. On 12 June 2009 at around 9:00 a.m., Mr. Antonio Castillo, a columnist for Bigwas, was shot at close range by two men on a motorcycle on the national highway in Marcella village, Uson town, Masbate province. Mr. Castillo was reportedly rushed to a hospital, but died three hours later as a result of his injuries. As yet a motive for the killing of Mr. Castillo has not been established, but reports claim that he had reported and commented on alleged corruption at the community level.

1830. On 27 June 2009, Mr. Jonathan Petalvero, a radio host on DXFM station, was shot dead by a masked gunman at a restaurant in the town of Bayugan on Mindanao Island. He was declared dead upon arrival at hospital. Mr. Petalvero was known for his critical commentaries on alleged local corruption.

1831. On 27 July 2009 at around 1 a.m., Mr. Godofredo Linao received a text message inviting him to a restaurant in Barobo town, Surigao Del Sur province. An unidentified gunman then reportedly shot Mr. Liano four times after he parked his motorcycle and crossed the road to the restaurant. Whilst the motive of the killing remains unclear, some reports suggest that Mr. Linao was targeted for his broadcasts which often focused on alleged corruption within the local government.

1832. On 28 July 2009, Mr. Mario Alviso, manager of Radyo Nitin, received a text message from an unidentified sender the day after Mr. Linao's murder, stating that the killing was "just a sample" of what could be done, and that "he would be next".

1833. Concern was expressed that the aforementioned events might represent a direct attempt to prevent independent reporting in the Philippines thus stifling freedom of expression in the country. Further concern was expressed for the physical and psychological security of media professionals in the Philippines.

Responses from the Government

1834. In a letter dated 28 October 2009, the Government indicated that on 3 August 2009, the Task Force Against Political Violence, also known as Task Force 211 of the Department of Justice, announced the filing of charges against a certain “Doy” in the killing of Mr. Godofredo Linao. The case was filed at the Regional Trial Court (RTC) of Lianga Sur, docketed as Criminal Case No. 1-2295. Prior to that, a case against the suspect in the killing of Mr. Jonathan Petalvero was filed on 30 July 2009 at the RTC Branch 7 of Bayugan, Agusan del Sur, and docketed as Criminal Case No. 3012.

1835. In another letter dated 23 November 2009, the Government gave further information about the killings mentioned in the letter of allegations.

1836. According to reports, Mr. Perez was shot by an unidentified male who posed as a client at the victim’s residence in Poblacion 7, San Jose, Mindoro Occidental on 9 June 2009. An investigation ensued, which resulted in the filing of a complaint before the Department of Justice against a police officer – PO2 Darwin Quimoyog on 2 July 2009. The case is now submitted for resolution. Two possible motives for the killing were explored during the course of investigation: 1) political motive, in relation to the profession of Mr. Perez as a lawyer and media practitioner; and 2) the involvement of his wife in several estafa cases. Authorities ruled that political motive could be the primary reason for the killing.

1837. According to reports, Mr. Castillo was on his way home when he was shot by suspects along the National Highway in Barangay Marcella, Uson, Masbate on 12 June 2009 at around 9 a.m. A complaint for murder was filed against suspects before the Provincial Prosecution Office of Masbate, and based on a resolution dated 14 October 2009, there was a finding of probable cause. Information for murder was filed before the RTC of Masbate City against a certain alias “Joy Joy” and “John Doe”.

1838. Mr. Fetalvero was shot and killed on 25 June 2009 at about 7 p.m. while having a drinking spree at June 8 Lechon Manok and Fastfood in Rotonda, Poblacion, Bayugan, Agusan del Sur. According to reports, the victim was not a media practitioner, but a regular resource speaker in the program of Vice Mayor Genesis Efren. The Chairman of the Kapisanan ng mga Brodkaster ng Pilipinas – KBP (association of broadcaster in the Philippines) Agusan del Sur Chapter issued a certification to this effect. Furthermore, the victim was allegedly planning to run as councilor of Bayugan for the 2010 elections. Based on testimonies of witnesses, a complaint was filed against a certain alias “Ger” before the Prosecutor’s Office in Bayugan, Agusan del Sur. An arrest warrant was issued on 11 August 2009 against the suspect.

1839. Mr. Linao was shot while riding his motorcycle in front of Bogak Lodge in Purok 1, Barobo, Surigao del Sur on 27 July 2009 at around 1.15 a.m. Aside from working as a commentator/disc jockey in two radio stations, the victim worked as political aide/spokesperson to Vice-Governor Librado Navarro of Surigao del Sur. On the basis of description given by

witnesses, a sketch of the primary suspect was prepared which was designated as alias “Doy”. Information for murder was filed on 31 July 2009 against alias “Doy” and a certain “John Doe”. Thereafter, an amended complaint against Joel Namoc a.k.a. Poloy and three other “John Does” were filed at the RTC Branch 28 of Lianga, Surigao del Sur. An arrest warrant was issued for the arrest of the suspects on 3 September 2009.

Letter of allegations

1840. On 30 November 2009, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent a letter of allegations regarding the **massacre in Maguindanao province**.

1841. According to the information received, in the morning of 23 November 2009, a convoy of supporters of Mr. Esmael Mangundadatu, the vice-mayor of Buluan town in Maguindanao province, was travelling on the road to Shariff Aguak, one of the main towns of Maguindanao, to an electoral office to register Esmael Mangundadatu as a candidate in the elections for governor of Maguindanao province next year. The convoy, which did not include the candidate himself, was led by his wife and comprised local politicians, lawyers and journalists.

1842. At around 9:00 a.m., in a rural area near the villages of Salman and Malating, the convoy was abducted by a group of more than 100 gunmen, suspected to be members of a militia at the services of the family of the Governor of Maguindanao province. Some reports indicate that among the abductors there were members of the police and the Armed Forces of the Philippines. The gunmen took the entire convoy to a location around ten kilometres from the main road, where they killed at least 57 persons, including 24 women (the reports we have received do not clearly indicate how many survivors there were). Some reports indicate that the abductors tortured the victims before executing them, including subjecting the female victims to sexual violence. The bodies were buried in mass graves on a hilltop in Sitio Masalay, Barangay Salman, in Ampatuan, Maguindanao province.

1843. The victims include the wife of Esmael Mangundadatu, Genalyn, and two of his sisters, Eden and Farida Sabdula. There are also at least two lawyers among the victims, Concepcion Brizuela and Cynthia Oquendo.

1844. The names of 30 journalists working for local or national newspapers, radio stations and TV stations reported to be among the victims are: Benjie Adolfo, Ronnie Perante and Rubello Bataluna of Gold Star Daily; Lindo Lupogan of Daily Gazette; Rosell Morales of News Focus; Alejandro “Bong” Reblando of the Manila Bulletin; Henry Araneta of radio DZRH; Ernesto “Bart” Maravilla of Bombo Radyo Koronadal; Napoleon Salaysay of Mindanao Gazette; Ian Subang of Pilipino Star Ngayon and Dadiangas Times; Leah Dalmacio of Forum and Mindanao Focus; Gina de la Cruz and Marites Cablitas of Today; Andres “Andy” Teodoro of the Mindanao Inquirer; Bienvenido Lagarte of the Sierra News; Marife “Neneng” Montaña of the weekly Saksi; Rey Merescon of MindaNews; Eugene Dohillo, Joy Duhay, Victor Nuñez, Macario Ariola and Jimmy Cabillo, all five of UNTV; freelance reporters Humberto Mumay, Fernando “Rani” Razon, Noel Decena, John Caniba, Joel Parcon, Marife Montano, Art Belia Jun Gatchalian, and Jun Legarta.

1845. One of the journalists who survived the attack had allegedly been receiving threats to his life since 2004. The threats reportedly began after he wrote a newspaper article which exposed details of summary executions in Maguindanao that were allegedly linked to the family of the Governor of the Province. He allegedly received information of a plot to kill him, involving policemen, and attempts were made on his life. However, no investigation into his allegations was undertaken and he was not offered any protection by the authorities.

1846. On 27 November 2009, Andal Ampatuan Jr, mayor of the town Datu Unsay and son of the Governor of Maguindanao Province, was arrested as a suspect. Reports indicate that his father, Andal Ampatuan Sr, who is currently serving his third term as Governor, had been grooming Andal Ampatuan Jr to succeed him in office as a result of the 2010 elections.

1847. The National Police Director has suspended or relieved several of the commanding officers of the police in Maguindanao province from their positions, while other members of Maguindanao police have been arrested. The Armed Forces of the Philippines have announced that the Ampatuan family's private militia will be disbanded.

1848. The Acting Secretary of Justice in your Excellency's Government has announced that prosecutors are processing the admission to the witness protection program of 20 or more witnesses to the killings.

Response from the Government

1849. In a first letter dated 10 December 2009, the Government replied to the communication sent on 30 November 2009 regarding the Maguindano massacre as follows.

1850. On 24 November 2009, Her Excellency President Gloria Macapagal-Arroyo declared a state of emergency in the provinces of Maguindanao, Sultan Kudarat and Cotabato City through Proclamation Order No.1946. PGMA also ordered the Philippine National Police (PNP), Armed Forces of the Philippines (AFP) and the National Bureau of Investigation (NBI) to investigate the incident. The Commission on Human Rights (CHR) has also been asked to join in the inquiry to ensure transparency and impartiality.

1851. Armed Forces of the Philippines: In compliance with the President's orders, Acting Military Chief of Staff Maclang, directed the establishment of checkpoints and chokepoints and the deployment of troops from the 601st Infantry Brigade to the crime scene. The AFP also helped in the exhumation of the bodies in the grave sites.

1852. The AFP has taken over the provincial capitol of Maguindanao and the municipal halls of Shariff Aguak and Ampatuan towns to prevent possible escalation of violence. On 26 November 2009, at least 600 troops deployed about 4:30 in the morning to the provincial capitol and municipal halls disarmed all detailed forces there, mostly members of the CAFGU. Two high ranking military officials were relieved as part of the investigation on the alleged involvement of government troops in the massacre. They are MGen. Alfredo Cayton, the 6th ID Chief and Col. Medardo Geslani, 601st IB.

1853. On 3 December 2009, the AFP deployed more troops in Shariff Aguak town to guard the members of the Amputan clan, whose members are said to be under threat, and to secure the peace and order in the province. The deployment of the 33rd IB from Lanao Del Sur is part of the preparations for the service of warrants against members of the Ampatuan family.

1854. Department of Justice: Justice Secretary Agnes VST Devanadera ordered the National Bureau of Investigation (NBI) to conduct its own investigation into the massacre. She created a special panel of prosecutors that would handle cases arising from the investigation. She also ordered prosecutors in the area and nearby provinces to coordinate with the families of victims and the law enforcement agencies for the prosecution of those responsible in the incident.

1855. On 6 November 2009, Datu Unsay Mayor Andal Ampatuan Jr. was subjected to an inquest held at the General Santos Airport. The inquest was presided by Secretary Devanadera together with Chief State Prosecutor Jovencito Zuno.

1856. On 1 December 2009, Andal Ampatuan Jr. was charged with 25 counts of murder before the Regional Trial Court of Cotabato City. The other accused are Ulo Amputan, Bahnarian Amputan, Kanor Ampatuan, Muhamad Sanki, Tammy Masukat and PO1 Abbey Guiaden. Several policemen surrounded the courthouse while the prosecutors were inside. The Department of Justice also asked for a venue of the hearing of the case in Manila to ensure the security of all the parties especially the witnesses in the case.

1857. On 3 December 2009, Government prosecutors named ten more suspects in the Maguindanao massacre. The new suspects, including three members of the Ampatuan clan, were also placed in the BI watchlist. They are: Ulo Ampatuan, Kanor Ampatuan, Tony Kenis Ampatuan, Abdullah Sangki, Muhamad Sangki, Tammy Masukat, Tumi Timba Abas, Abbey Guiadem, Esmael Canapia and Takpan Dilun.

1858. National Bureau of Investigation (NBI): the NBI conducted its own investigation of the incident following an order issued by the Secretary of Justice. After the first inquest last Thursday, 26 November, Mayor Andal Ampatuan Jr was brought to Manila and he is currently detained at the NBI Headquarters. The forensic experts of the NBI have conducted autopsy on the bodies of the victims for a total of 20.

1859. Bureau of Immigration (BI): following a memorandum from the Secretary of Justice, the Bureau of Immigration has put nine (9) members of the Ampatuan family on its watchlist. They are: Andal Ampatuan Jr., Andal Ampatuan Sr., Zaldy Ampatuan, Nords Ampatuan, Akmad Ampatuan Sr., Akmad Ampatuan Jr., Saudi Ampatuan Jr., Bahnarian Ampatuan, and Sajid Islam Ampatuan.

1860. Philippine National Police (PNP): aside from ordering the immediate investigation of the Maguindanao incident, PDG Jesus Versoza placed police nationwide on alert to prevent any other election-related violence. Versoza ordered police regional, provincial and station commanders to monitor political rivalries in their jurisdictions. The Civil Security Group (CSG) has revoked all gun licenses issued to Ampatuan Jr.

1861. On 28 November 2009, six aides of Governor Zaldy Ampatuan were disarmed by members of Task Force Davao after they were found carrying high powered firearms in Davao City.

1862. PSSupt. Agusana Maguid, Maguindanao police chief; PCI Sukarno Dicay, deputy chief police; PSI Ariel Diongson, group director 1508th Provincial Mobile Group; and SPO2 Badawi Bakal, officer-in-charge of the Datu Ampatuan Police Station were relieved from their respective posts and were brought at the CIDG headquarters in Camp Crame. Maguid was relieved due to command responsibility while Dicay, Diongson, and Bakal were relieved after they were seen at the scene during the massacre. Aside from the four, three more policemen were relieved from their posts. They were PCSupt. Paisal Umpa, ARMM police chief; PI Armando Mariga, group director of the 1506th Police Mobile Group, and PI Saudi Mokamad, group director of the 1507th PMG.

1863. Policemen detailed in three Maguindanao towns were relieved while those in the 19 other towns were reshuffled. Law enforcement agencies have been instructed to provide security to Justice Secretary Devanadera, the prosecutors and the judge who will hear the case.

1864. Department of Interior and Local Government (DILG): The President gave full powers of supervision to DILG Secretary Ronnie Puno over the incident. On 1 December 2009, Secretary Puno ordered an immediate evaluation of a complaint filed by Buluan Vice Mayor Esmael Mangudadatu seeking the investigation of Gov. Zaldy Ampatuan of ARMM for alleged failure to protect civil, human and political rights of the victims of the massacre. Puno gave the lawyers of DILG 24 hours to submit their recommendation on the complaint by Mangudadatu.

1865. Supreme Court (SC): There are only three Regional Trial Court Branches for the whole province of Magindanao and Cotabato City. Only two are filled up but the judges assigned are presently abroad. The Supreme Court empowered Judge Guerrero of nearby province of Sultan Kudarat to sit temporarily on one vacant RTC branch to accept cases in connection with the Maguindanao massacre. Another judge from a nearby province, Judge Palmones of Kidapawan City, was authorized by the Supreme Court to accept applications for search warrants.

1866. In a second letter dated 23 January 2010, the Government provided further details to the communication sent on 30 November 2009 regarding the Maguindanao massacre, and informed that as of 6 January 2010, 56 murder charges have been filed against Datu Andal Unsay Ampatuan Jr, and that the other accused are still undergoing preliminary investigation. Rebellion charges have also been filed against Andal Ampatuan Sr. and other members of the Ampatuan clan. The Government also provided the following summary report of the Department of Justice on the Maguindanao massacre.

1867. When the Maguindanao incident happened on 23 November 2009, Her Excellency Gloria Macapagal-Arroyo mobilized the different agencies/offices of the government to ensure that an immediate and proficient investigation of the case will be completed.

1868. On the part of the Department of Justice, the Secretary of Justice immediately ordered the National Bureau of Investigation (NBI) to conduct its own investigation of the massacre. NBI experts were sent to the crime scene. The forensic experts of the NBI have conducted autopsy on the bodies of the victims.

1869. A few hours after the incident, Task Force 211 (TF211) immediately communicated with the lawyers of the Mangudadatus to get their cooperation in gathering witnesses for the crime. Undersecretary Ricardo R. Blancaflor, Chairman of TF211, conferred with the lawyer of the Mangudadatus, who promised to obtain the cooperation of the eyewitnesses and other relevant witnesses. The following day, TF211 coordinated with the Philippines National Police (PNP), Scene of the Crime Operatives (SOCO) units and instructed/coordinated with the NBI Team of Region 12 to conduct a parallel investigation.

1870. Also on 24 November 2009, a special panel of prosecutors was formed to handle cases arising out of the incident. The following day, the panel was further reorganized and two groups were formed to ensure the immediate and efficient inquest/preliminary investigation of the cases.

1871. Many of the media members who were massacred were personal friends of the Chairman of TF211, and they have been actively involved in the resolution of a local media killing case in General Santos City.

1872. Usec. Blancaflor, in a meeting with the survivors of the incident, convinced them to execute affidavits that were eventually used by the NBI to charge Datu Andal Ampatuan, Jr. TF211 likewise gave financial assistance to the families of deceased media practitioners.

1873. On 25 November 2009, Secretary of Justice, Agnes VST Devanadera, arrived in Maguindanao. Additional NBI Medico Legal and investigating team were also brought from Manila to augment the local NBI. By 25 November, the DOJ team was able to build-up a case against Datu Andal Ampatuan, Jr., that when he arrived in General Santos airport in the afternoon of 26 November, he was immediately arrested and subjected to inquest. The inquest was immediately terminated and Datu Andal Ampatuan, Jr. was brought to Manila at the NBI Detention Center. The complaint for Multiple Murder referred for inquest and filed before DOJ Manila was docketed as XVI-INQ-09K-00103 entitled "NBI-Mangudadatu et al. vs. Datu Andal Ampatuan Sr. et al".

1874. On 1 December 2009, Andal Ampatuan, Jr. was charged with 25 counts of murder before the Regional Trial Court (RTC) of Cotabato City. The Department of Justice also asked for a transfer of venue of the hearing of the case in Manila to ensure the security and safety of all the parties especially the witnesses in the case. On 9 December 2009, additional murder charges were filed before the Cotabato RTC.

1875. The Supreme Court granted the request for transfer of venue thus, cases were transferred to RTC Quezon City. Criminal Case Nos. Q-09-162148-22 for 25 counts of murder and Criminal Case Nos. Q-09-162216-31 for 16 counts of murder are now being heard before the Hon. Jocelyn A. Solis-Reyes of RTC Branch 221 of Quezon City.

1876. On 5 January 2010, Datu Andal Unsay Ampatuan, Jr. was arraigned and pleaded guilty. Bail hearing has started and one witness for the prosecution was presented. Hearings are scheduled on 13 and 20 January 2010.

1877. On the cases pending preliminary investigation, the Government informed that on 2 December 2009, a complaint for Multiple Murder was filed for preliminary investigation in DOJ Manila and docketed as XVI-09L-00816 entitled "CIDG-CIDU vs. Gov. Datu Andal Ampatuan

Sr. et al”. The following day, another complaint for Multiple Murder was referred for inquest and docketed as XVI-INQ-09L-00104 entitled “CIDG vs. Esmail Canapia and Takipan Dilun”. On 18 and 28 December, preliminary investigation hearings were held in DOJ Manila.

1878. On the rebellion charges, the Government informed that on 7 December 2009 at 11:00 p.m., inquest proceedings for Rebellion was held in Cotabato City. Among those charged was Gov. Ampatuan Sr., ARMM Gov. Zaldy Ampatuan, five other members of the Ampatuan family and 17 others. The basis of the filing of the complaint are affidavits of witnesses who testified on the role of Ampatuans in planning and implementing the withdrawal of allegiance from the Philippine Government and affidavits of witnesses who testified that the Ampatuans ordered government offices to close down in protest of the crackdown of the military against the Ampatuan family.

1879. On 9 December 2009, at 3:30 p.m., the Information for Rebellion was filed before the Regional Trial Court of Cotabato City docketed as C.C. No. SA 198. Charges against additional respondents are currently undergoing preliminary investigation in DOJ Manila. Hearings were held on 8 December 2009 and 12 January 2010.

1880. Bureau of Immigration: by virtue of an order by the Secretary of Justice dated 27 November 2009, the Bureau of Immigration included in its watch-list nine members of the Ampatuan family. On 4 December 2009, ten additional suspects in the incident were added and on 18 December 2009, several additional names were also included in the Bureau’s watch-list.

Response from the Government to communications sent earlier

1881. In a letter dated 3 June 2009, the Government responded to a joint communication dated 29 August 2008, informing that on 3 August 2008, while Pastor Romeo Tagud was officiating mass at the Iglesia Filipina Independiente Church (IFI) in Bago City, Negros Occidental, an unidentified girl approached the cleric and handed him a white envelop containing one round of live ammunition for an M-16 armalite rifle. During police investigation, it was learned that Fr. Tagud had an extra-marital affair with a certain Reyna Retolosa of Barangay Balingasag, Bago City. Priests ordained in the IFI are allowed to get married. In fact, Fr. Tagud has three children with his legal wife. It is believed that the supposed “threat” to Fr. Tagud came from the family of Ms. Retolosa. This angle is still the subject of further investigation. Due to the incident, Fr. Tagud had requested a transfer of since 17 August 2008. There are strong indications that the said “death threat” on Fr. Tagud was connected to his alleged liaison with Ms. Retolosa, and was not in any way connected to his activism and human rights advocacy. There have been no other reports of threats to his life after he left Bago City.

1882. In the same letter, the Government informed that upon verification with other agencies, including the regional office of the Commission on Human Rights, the Negros Oriental Provincial Police Office learned that four members of KARAPATAN-Central Visayas, namely Dennis Abarrientos, Jean Suarez, Corcodina Oyao, and Vilmarie Arcilla did not file any report or complaint of harassment. Further investigation revealed that Vilmarie Arcilla and Henry Estrellanes had faced charges for kidnapping and serious illegal detention of Catalino Ortega y Balasabas before the Negros Provincial Prosecutor’s Office, docketed as I.S. Case Number 2008-505. The charges were filed by SP01 Genaro T. Nodado of Valencia Police Station who investigated the verified complaint against Arcilla and Estrellanes. Catalino Ortega was detained

against hi will for 11 days by Arcilla and her group. The case was filed when Catalino's mother sought the assistance of Valencia Police Station. Catalino was only released when the group holding him learned of the kidnapping charges filed against them. Due to technicalities, said charges were later dismissed by the investigating prosecutor. In its report, Negros Oriental Provincial Police Office stated that Ms. Arcilla and her companions may have misconstrued the filing of the case as "harassment". Said police office also concluded that no members of KARAPATAN-Central Visayas were harassed or threatened.

1883. In a letter dated 16 July 2009, the Government responded to the communication dated 5 October 2007, informing the parents of Ms. Karen Empeño, Ms. Sherlyn Cadapan and Mr. Manuel Merino filed before the Court of Appeals a Petition for Habeas Corpus on 17 July 2006, praying that a Writ of Habeas Corpus be issued directing several respondents of the Armed Forces of the Philippines (AFP) to bring the bodies of the victims to the Court. The petition was later dismissed for lack of evidence that the victims were indeed in respondents' custody. However, on 24 October 2007, a Writ of Amparo was subsequently filed in the Supreme Court where the Court resolved to issue the Writ and ordered the Court of Appeals to hear the petition. Hearing were conducted with Raymond Manalo as the principal witness since the latter testifies that he saw Sherlyn Cadapan in the same military camp where he was brought after he was kidnapped by paramilitaries soldiers. The Court of Appeals, on the basis of Raymond Manalo's testimony, directed the AFP to immediately release, or cause the release from detention, the person of Cadapan, Empeño and Merino, despite the AFP's denial of their alleged involvement. In addition, the Philippine National Police (PNP) was ordered to resume its unfinished investigation so that the truth will be fully ascertained and appropriate charges filed against those truly responsible. However, witnesses refused to cooperate with the investigators despite several attempts to communicate and/or coordinate with them. Nevertheless, the PNP is continuing to exert more efforts so that the witnesses or anyone who can give any information would eventually cooperate.

Observations

1884. The Special Rapporteur thanks the Government for its responses, but regrets that at the time of finalizing the present report, the Government had not transmitted a reply to several of the communications sent in 2009, 2008, 2006, 2005 and 2004. The Special Rapporteur considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

1885. The Special Rapporteur also thanks the Government for its detailed responses regarding the Magindanao massacre. However, the Special Rapporteur wishes to reiterate that the pre-meditated killing of political opponents, combined with a massive assault on the media, must be tackled at various levels that go well beyond standard murder investigations. As highlighted in his press statement of 2 December 2009, issued jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur also wishes to emphasize that in addition to comprehensive and independent investigations and prosecutions of all those responsible for the killings, there is a need for a more extensive reflection on the elite family-dominated manipulation of the political processes and the need to focus on the ways and means of enhancing protection for journalists in the future. The Special Rapporteur therefore looks

forward to receiving further information regarding outcomes of the hearings of those responsible for the killings, and measures that have been adopted to ensure the protection of journalists and to prevent killings that occur in the lead-up to the elections.

Republic of Korea

Urgent appeal

1886. On 25 March 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government regarding Mr. **Roh Jong-myeon**, a Republic of Korea television journalist for YTN, a leading 24-hour news channel, and head of the YTN workers' union.

1887. According to the information received, on 22 March 2009, Mr. Roh was arrested along with three colleagues and fellow trade union activists, at their homes, by Republic of Korea police, on the charge of "interfering with business" on the eve of a strike over wage disputes and unfair dismissals. The Seoul Central District Court judge reportedly approved a second arrest warrant for Mr. Roh to detain him beyond 48 hours. The same judge however rejected further arrest warrants for the three aforementioned persons arrested on the same date, who were subsequently released. At the time of submission of the urgent appeal, Mr. Roh was being held in Namdaemun police station.

1888. Police reportedly said the arrests were due to the above journalists having not presented themselves at Namdaemun police station at a designated time. Allegedly the journalists received the summons the day after they were supposed to appear at the police station.

Response from the Government

1889. In a letter dated 2 June 2009, the Government responded to the communication sent on 25 March 2009 regarding the case of Mr. Roh Jong-myeon. In its reply, the Government clarified that Mr. Roh was not only charged with "interference with business", but also for other charges including joint acts of unlawful entry under the Punishment of Violence Act and rendering null and void the symbol of official secrecy under the Criminal Act. The Government provided further information as follows.

1890. Mr. Roh and others obstructed the YTN CEO from entering his office, occupied the CEO's office and interfered with news department meetings. In December 2008, YTN applied for a provisional injunction to the Seoul Central District Court to ban interference with its business, and received approval from the Court. In spite of the order of the provisional injunction, Mr. Roh and the others illegally occupied the CEO's office again in January 2009. During the period between August 2008 and January 2009, YTN filed complaints against Mr. Roh and the others on give occasions on charges of joint acts of unlawful entry under the Punishment of Violence Act and for rendering null and void the symbol of official secrecy under the Criminal Act. As a result, Mr. Roh and the others were arrested for occupying the CEO's office, interrupting news department meetings, and occupying the CEO's office even after the provisional injunction had ordered a ban on interference with business.

1891. Although there was good reason to suspect Mr. Roh committed such crimes, he failed to comply with the request for attendance by the police without due cause. The police requested the attendance of Mr. Roh three times in phone calls on 11 March (for attendance on 12 March) and on the morning of 17 March (for attendance in the afternoon) as well as by making a phone call and sending a fax on the afternoon of 17 March (for attendance on 19 March). Nonetheless, Mr. Roh failed to arrive at the police station, only explicitly expressing unwillingness to attend. It is true that the summons requesting Mr. Roh's attendance on 17 March was delivered to him the next day due to an administrative mistake, but as stated above, the police otherwise made due requests for his attendance several times. Accordingly, on 22 March, the police arrested Mr. Roh and the others with a warrant of arrest requested by a prosecutor and issued by a judge according to Article 200(2) of the Criminal Procedure Act. On 24 March, they were placed in custody with a warrant of detention in accordance with Article 201 of the Criminal Procedure Act.

1892. The custody system under the criminal procedure in Korea is a two-fold system comprising arrest and detention. In the case of arrest, where there is good reason to suspect that a suspect has committed crimes, and he refuses or is likely to refuse the request of attendance without due cause, a judicial police officer may detain him at a certain place, such as a police station, for a short period of time. Detention is a compulsory measure to restrict the physical freedom of a suspect or a defendant for a period of time longer than an arrest, for the purpose of carrying out a criminal procedure. Carrying out an arrest requires, in principle, that a judge issue a warrant, but a detention absolutely requires that a judge issue a warrant, with no exceptions. Regarding the detention of an arrested suspect, Article 201 of the Criminal Procedure Act provides that a request for the warrant of decision shall be made within 48 hours from the time of the suspect's arrest.

1893. In Mr. Roh's case, the judicial police officer filed an application to the public prosecutor to request warrants of detention for four suspects, including Mr. Roh. However, the public prosecutor requested warrants of detention to the judge for only three of the suspects, rejecting one case upon review. The Government therefore asked the Chairperson-Rapporteur and the Special Rapporteur to consider the above facts, which demonstrate that the public prosecutor conducted a process of careful review in detaining the persons concerned.

1894. On 2 April, the labour and management side of YTN came to an agreement to withdraw criminal complaints against each other. The same day, the court released Mr. Roh after reviewing the legitimacy of his detention. At present, the prosecution is investigating the case without detaining Mr. Roh, and he is fully exercising his right to defend in cooperation with his legal counsel.

1895. With regard to legal grounds for the arrest and detention of Mr. Roh and their compliance with international norms and standards, the Government stated that Articles 9(1), 19(2) and 21 of the Universal Declaration of Human Rights recognize the rights to freedom of expression and peaceful assembly, and prohibit arbitrary arrest, while Article 29 of the UDHR and Articles 19(3) and 21 of the ICCPR provide restrictions on the exercise of these rights. Articles 21(1) and 37(2) of the Constitution of the Republic of Korea guarantee freedom of speech and the press, and freedom of assembly and association, and these freedoms may be restricted by law only when necessary for national security, the maintenance of law and order or for public welfare. Even when such a restriction is imposed, no essential aspect of the freedom or right shall be violated. Article 200-2(1) of the Criminal Procedure Act stipulates the arrest of a suspect, and

Article 201(1) stipulates detention in cases where there is good reason to suspect that a suspect has committed crimes, and refuses or is likely to refuse the request of attendance without due cause.

1896. Considering the complaints submitted by YTN and statements by witnesses, the police had good reason to suspect that Mr. Roh had committed a crime. Furthermore, as Mr. Roh refused to comply with requests for attendance on three occasions without due cause, the arrest and detention of Mr. Roh were not arbitrary, but were in full compliance with the Criminal Procedure Act.

1897. As Korean citizens, Mr. Roh, the head of YTN worker's union, and his colleague journalists, the members of the worker's union, are entitled to enjoy the rights to freedom of press and freedom of assembly and association. However, these rights are to be enjoyed within legal limits. If a change is brought against someone believed to be illegally exercising his rights, an investigation should be conducted in accordance with the law. Legitimate legal enforcement action against journalists involved in illegal trade union activities should not be considered as a violation of freedom of the press and opinion, or of freedom of assembly and association.

1898. Thus, in accordance with the UDHR and ICCPR, the Government of the Republic of Korea guarantees freedom of the press and of peaceful assembly and prohibits arbitrary arrest and detention. Furthermore, legal procedures for arrest and detention are duly respected. The procedures involved in the arrest, detention and release of Mr. Roh were in compliance with the Criminal Procedure Act.

1899. The Government further added that there have been allegations that the investigation bodies carried out the law enforcement with the intention of oppressing the media, which is not the case. Considering the situation and the points mentioned above, the Government cordially requested that the Chairperson-Rapporteur and the Special Rapporteur review the situation related to the arrest of the journalist in a fair and impartial manner.

Urgent appeal

1900. On 26 March 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding Mr. **Chun Keun Lee**, a journalist with public TV station Munhwa Broadcasting Corporation (MBC).

1901. According to information received, on 25 March 2009, at approximately 10.20 p.m., Mr. Lee was arrested by police officers in Seoul. Mr. Lee and his wife were driving near the MBC headquarters when they were intercepted by three unmarked vehicles. A number of police officers got out of the vehicles and handed Mr. Lee a summons to present himself at the Prosecutor's office. When Mr. Lee failed to comply with their demands he was issued with an arrest warrant and taken by force in one of the awaiting vehicles. He is currently being detained at the office of the Prosecutor in Seoul, and faces up to five years in prison.

1902. According to reports, Mr. Lee's arrest is linked to his involvement in reporting on the import of beef products from the United States which sparked widespread protests throughout the country in May 2008. The report was broadcast on the MBC investigative programme PD

Note in April 2008. In early March 2009, journalists involved in the programme were reportedly accused of defamation by the Ministry of Agriculture on the grounds of “minor translation errors.”

1903. Concern was expressed that the aforementioned events may represent a direct attempt to prevent independent reporting in South Korea, particularly in light of the recent arrest and detention of other journalists in the country, including Mr. Roh Jong-myeon, a journalist for YTN on 22 March 2009. Mr. Roh Jong-meyon was the subject of an urgent appeal letter sent on behalf of the Special Rapporteur on the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 24 March 2009.

Response form the Government

1904. In a letter dated 2 June 2009, the Government responded to the communication sent on 26 March 2009.

1905. With regard to the facts relating to the detention of Mr. Lee Chun Geun, the Government noted that an investigation of this case was carried out pursuant to a request by the Ministry of Food, Agriculture, Forestry and Fisheries (Ministry of Agriculture) and complaints filed by the former Minister and Deputy Minister of Agriculture. They claimed that the facts were distorted by the TV programme which used intentionally mistranslated subtitles and edited the content in a misleading manner, and as a result, Mr. Lee directly defamed the former Ministers. The main point of this case was to find out whether Mr. Lee intentionally reported false information or not.

1906. The urgent appeal states that Mr. Lee was arrested immediately after his refusal to comply with an attendance request under a summons handed to him on the scene of his arrest. However, this is not the case. During the period from July 2008 to March 2009, the prosecution served Mr. Lee with four summonses in order to commence an investigation of the case. However, explicitly expressing unwillingness to cooperate with the prosecution, he refused to attend or submit the requested documents. Therefore, the prosecution arrested Mr. Lee on a warrant of arrest issued by a judge in accordance with Article 200(2) of the Criminal Procedure Act.

1907. The urgent appeal states that Mr. Lee “is currently being detained at the office of the Prosecutor in Seoul, and faces up to five years in prison”. However, Mr. Lee was arrested at approximately 22:25 on 25 March 2009 and released after questioning at approximately 22:00 on 27 March 2009. Mr. Lee was detained for less than 48 hours and is now under investigation without being detained.

1908. Regarding the conformity with national legislation related to freedom of expression and the provisions under the International Covenant on Civil and Political Rights, the Government noted that the Constitution of the Republic of Korea (Articles 21(1) and 37(2) guarantees the freedom of the press and speech and this freedom may be restricted by law only when necessary for national security, the maintenance of law and order or for public welfare. Even when such restriction is imposed, no essential aspect of the freedom shall be violated. However, Article 307(2) of the Criminal Act stipulates that “those who defame one person by publicly alleging false information” shall be punished. That is to say, those intentionally reporting false

information, not based on facts, and resulting in the defamation of another person, will become subject to investigation. Such laws also conform to the UDHR and ICCPR.

1909. It is true that, Mr. Lee, a producer at MBC, a public broadcasting corporation, is entitled to enjoy the freedom of speech and expression. However, it is not appropriate to claim the investigation process was a violation of the freedom of speech and expression, since the prosecution followed the due process of investigation stipulated in the Criminal Procedure Act, based on request from the Ministry of Agriculture and complaints by former ministers, who accused Mr. Lee of distorting the truth and reporting false information, leading to the infringement of fairness and objectivity of broadcasting.

1910. Regarding the legal grounds for the arrest and detention of Mr. Lee and compatibility with international norms and standards, the Government noted that the Constitution of the Republic of Korea (Article 12) stipulates that all citizens shall enjoy personal liberty and no one shall be punished except as provided by law and through lawful procedures. The Criminal Procedure Act of the Republic of Korea makes it a rule to investigate without detention. However, in accordance with Article 200-2(1) of the Act, the prosecution may arrest a suspect with a warrant of arrest issued by a judge in cases where there is a good reason to suspect that the person has committed crimes and he/she refuses to comply an attendance request without due cause. If the public prosecutor intends to detain the suspect after the arrest, he/she should request for a warrant of detention to a judge within 48 hours from the time when the suspect was arrested. The suspect should be released immediately if a warrant of detention is not requested within 48 hours from the time of the suspect's arrest.

1911. There were good reasons to suspect Mr. Lee defaming the former ministers, based on the evidence submitted by the accusers. Mr. Lee also refused to attend for questioning for several time without any due cause. Therefore, the public prosecutor arrested him on a warrant of arrest issued by a judge and released him directly after questioning him. As this accords with the due process set out in the Criminal Procedure Act, it was not an arbitrary arrest and conforms to international human rights norms and standards.

1912. The Korean Government guarantees the freedom of speech and expression in compliance with the UDHR and ICCPR, prohibits arbitrary arrest, and follows the due process of law in its arrest procedures. As explained above, Mr. Lee, a suspect charged with defamation, was arrested in accordance with the due process set out in the Criminal Procedure Act, but at present he is under investigation without being detained.

1913. There have been allegations that the investigation bodies carried out law enforcement with the intention of oppressing the media, which is not the case. Considering the situation and the points mentioned above, the Government requested the mandate holders to review once again the situation related to the arrest of Mr. Lee Chun Geun in a fair and balanced manner.

Letter of allegations

1914. On 1 April 2009, the Special Rapporteur, together with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right

to non-discrimination in this context, the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations regarding **violent forced evictions and death of protestors as a consequence in Yongsan, Republic of Korea.**

1915. According to the information received, on 20 January 2009 in Zone 4, in Yongsan, a district of Seoul, five protestors were killed during a protest against forced eviction and the police crackdown to stop it. These events resulted from the implementation of an urban redevelopment project which has led to alleged massive forced evictions with no plan for resettlement.

1916. Yongsan was designated as a redevelopment project area in 2006. The families residing there only found out about it at the end of 2007, long after the Government had approved the plan for its implementation scheduled by the private enterprises. Reportedly, the tenants were only informed of their forthcoming eviction through the compensation notice one month before the eviction took place. As a consequence of this lack of notification, the tenants had no opportunities to challenge the authorities' decision or to file a legal complaint, to present alternative proposals, or to articulate their demand and priorities. They were also denied the opportunity to be provided with legal and technical advice about their rights and options.

1917. It is reported that previous to April 2008, construction workers were stationed at Yongsan, and harassed people in various ways, threatening them with cudgels, obstructing people's business, braking water pipes to prevent people from having clean water, sexually harassing women, threatening children and committing physical violence. For these reasons, some of the tenants moved out without any adequate resettlement. The security personnel demolished buildings as soon as tenants moved out. Reportedly, the Yongsan residents asked for police protection, but neither investigation nor action was carried out.

1918. Information states that the eviction also resulted in the loss of economic activity and income for a lot of tenants, who had established themselves over a long time in this area. Their forced moving made them lose their customers and pay extra costs to start again a new activity. According to additional information, the district office and the Police made no effort to arbitrate the conflict between tenants and the business enterprise which owns the building.

1919. According to sources, the tenants created a Committee (the Committee of Tenants Protesting Against Demolitions) to organize themselves against the evictions. The Yongsan district office reportedly pulled down the place where the Committee of Tenants Protesting Against Demolitions used to gather, which according to the source, aimed at preventing the Committee from gathering.

1920. In March 2008, the inhabitants asking for comprehensive resettlement plan joined the Federation Against House Demolition (Jun Chul Yun, a federation of different Committees Against Demolitions) and decided to prepare a demonstration, as a last resort. On the morning of 9 January 2009, approximately 50 people, including tenants of Yongsan and their supporters, started a sit-in protest on the rooftop of a five-story temporary building.

1921. Three and half hours after the beginning of the protest, compulsory measures to end the protest were requested by the Yongsan Police Station chief and approved by the Seoul Metropolitan Police Agency Commissioner, Kim Seok-ki. In order to disperse the protesters,

approximately 1.600 police officers as well as 49 SWAT officers trained for counterterrorism operations were dispatched around the area. During the police crackdown, a fire broke out. Five protesters and one SWAT officer died as a consequence. Among the five civilian victims, two – Lee Sang-rim and Yang Hui-sung – were involved in the committee of demolition protesters in Yongsan and three – Lee Seong-su, Yoon Yong-hyun, and Han Dae-sung – were involved in committees of demolition protesters in other places of Seoul or in Gyeonggi and had decided to support their counterparts.

1922. After the incident, the authorities carried out investigations on the events which resulted in the arrest of a number of protesters, and no charges were filed against the police. According to reports, this incident is not isolated or accidental, but the result of continuous violence by security personnel in the framework of redevelopment projects that include massive forced evictions.

Letter of allegations

1923. On 15 January 2010, the Special Rapporteur, together with the Special Rapporteur on the human rights of migrants and Special Rapporteur on the situation of human rights defenders, sent a letter of allegations regarding Mr. **Minod Moktan** as well as alleged human rights violations of **migrant workers**, including alleged violations of the right to freedom of expression and the right to liberty and security of the person. We have already addressed some of these concerns in a communication jointly sent by the Special Rapporteur on the human rights of migrants and the Special Rapporteur on the situation of human rights defenders on 16 May 2008, regarding the arrest of Mr. Limbu and Mr. Sabur, trade unionists of the Migrants Trade Union (MTU). We, however, regret that to date we have not received any response from your Excellency's Government, although it is alleged that they were deported to their countries of origin.

1924. According to the information received, Mr. Minod Moktan, a Nepalese citizen and human rights activist, arrived in South Korea in February 1992 on a short-term tourist visa. Mr. Moktan worked as a manual laborer in South Korea from 1992 until 2003. In 2004, he reportedly founded a band in South Korea called "Stop Crackdown Band". In 2005, he carried out educational programme on labour rights for migrants and also appeared on several television news programme to discuss the discrimination faced by migrant workers and the importance of cross-cultural awareness. He was reportedly one of the founders of the Migrant Workers TV ("MWTV"), a television station that broadcasts news related to migrants in South Korea in several languages. Between 2007 and 2008, he served as Co-chair of MWTV and in 2009 as Director of the MWTV Film Production Team. Mr. Moktan was reportedly arrested on 8 October 2009 at 10 a.m. in front of his office building by officers of the Seoul immigration authorities. He was allegedly deported to Nepal on 23 October, 2009. Concern was expressed that the arrest and deportation of Mr. Moktan are linked to his activity in favour of labour rights for migrant workers.

1925. These allegations are of particular concern, when considered in light of the information received which indicates that there exists a pattern of excessive use of force against and arbitrary arrest of irregular migrants by immigration officials. Between January and May 2009, the Immigration Service has reportedly arrested and detained 11,818 irregular migrant workers, and has deported 11,318 irregular migrants. Reports indicate that immigration officials often failed to follow arrest procedures in cases of irregular migrant workers and even use violence to

execute the arrest. According to the information received, in June and July 2009, immigration officials conducted raids in Ansan, an area reportedly heavily populated by migrant workers. They reportedly entered private houses without any warrants and without identifying themselves. Some migrant workers reportedly suffered from injuries due to the excessive use of force by the immigration officials in those instances.

Response from the Government

1926. In a letter dated 13 April 2010, the Government responded to the communication sent on 15 January 2010 as follows.

1927. Mr. Moktan, a Nepalese citizen, entered the Republic of Korea on 22 February 1992 on a short-term tourist visa (B-2), and resided illegally in the ROK for 17 years and eight months. When the Seoul Immigration Office issued a deportation order against Mr. Moktan on 6 February 2000, he claimed that he had delayed wage payments and requested a postponement of deportation. Upon his request, the Seoul Immigration Office granted him a temporary release from 20 March 2000 until 29 May 2000, only to find, however, that he escaped. He was later arrested on 8 October 2009 and was deported to his country of origin on 23 October 2009. His arrest and deportation were based on the grounds of his long-term illegal stay, and is not at all linked to his activity in favour of labour rights for migrant workers.

1928. The allegation that immigration officials entered a private residence in the Ansan area, on 10 July 2009, without any warrant and without identifying themselves is not true. The immigration official who was in charge of the enforcement operation at the time attempted to verify the identity of suspicious foreigners in the street after presenting his identification card. However, Mr. Moktan abruptly ran away to a nearby residence in order to avoid the enforcement operation, and the official entered the private house in the process of chasing him. It is true that a few of the immigrant workers were injured. These injuries occurred accidentally in the process of an attempt to arrest the escaping irregular migrants, and the Immigration Service took disciplinary measures against the officials concerned and carried out special training in that regard.

1929. The allegation regarding an excessive use of force against and arbitrary arrest of irregular migrants by immigrant officials is inaccurate. In the course of an enforcement operation on irregular migrants, there are inevitably instances in which the officers are compelled to use force in order to restrain irregular migrants from their attempts at escape or to defend themselves from violent resistance. Even in such cases, however, officials make every possible effort to legitimately exercise authority with minimal force only to the extent necessary. Furthermore, the Seoul Immigration Service provides trainings for officials to ensure the protection of the human rights of foreigners who are subject to an enforcement operation.

1930. The Government also provided further information regarding domestic legal provisions under which Mr. Moktan was arrested and deported, and stressed that actions against Mr. Moktan were not linked to his exercise of freedom of expression. The Government stated that Mr. Moktan was put into custody and deported on the grounds of his illegal stay in the country for 17 years and eight months.

1931. In addition, the Government stated that it guarantees freedom of speech and the press, and freedom of assembly and association under Article 21 of the Constitution, which are also applicable to foreigners. It highlighted the ruling of the Constitutional Court (verdict number 2001HeonBa43) in which the freedom of expression for foreigners was recognized.

1932. With regard to freedom of association, the Government stated that Article 33 of the Constitution guarantees the right to independent association, collective bargaining and collective action, and that the Act on Employment, etc. of Foreign Workers stipulates that legally employed foreign workers are allowed to freely organize a trade union or join one in accordance with the Trade Union and Labour Relations Adjustment Act. Illegal foreign workers, however, are not allowed to join a trade union or to organize one under the Trade Union and Labour Relations Adjustment Act. The Government informed that they are prohibited from working pursuant to the Immigration Control Act, and thus cannot be seen as workers entitled to trade union rights.

Observations

1933. The Special Rapporteur wishes to thank the Government for the detailed response transmitted to his communications, but regrets that at the time the present report was finalized, no response had been received to the communication of 1 April 2009, 19 October 2006, and 27 June 2006. He considers response to his communications as an important part of the cooperation of Governments with his mandate, and urges the Government to respond to the concerns raised by him.

1934. The Special Rapporteur also expresses his appreciation for the invitation that was extended to him by the Government of the Republic of Korea to undertake an official visit from 6 to 17 May 2010. After the conclusion of the twelve-day mission, the Special Rapporteur identified six main areas of concern and made his preliminary recommendations in his press statement, namely: restrictions and regulations of freedom of expression on the Internet, defamation, freedom of assembly, freedom of expression prior to elections, the National Security Act, public broadcasting, the National Human Rights Commission of Korea, and the right to freedom of opinion and expression of public officials. The full statement is available via the OHCHR website, at <http://www2.ohchr.org/english/issues/opinion/>.

Republic of Moldova

Letter of allegations

1935. On 4 March 2009, the Special Rapporteur sent a letter of allegation to the Government concerning the **non-automatic renewal of the broadcasting license of Pro-TV**.

1936. According to information received, through a letter dated 9 December 2008 issued by Mr. Gheorghe Gorincioi, Chairperson of the Audiovisual Coordination Council (CCA), Pro-TV was denied an automatic extension of its broadcasting license as per article 24(1) of the Audio Visual Code. According to the explanation provided for denying such extension, Mr. Gorincioi advised that Pro-TV did not comply with Moldova's broadcasting law and license conditions. In particular, he made reference to specific apparent Audio Visual Code violations, including the airing of a news broadcast that focused solely on criminal activity, excessive advertisement, the broadcast of non-grouped advertisement and other violations.

1937. On 11 December 2008, a member of the CCA advised that a previous Pro-TV request for an automatic license extension was denied as the Audio-Visual Code does not provide for automatic renewals. On the subsequent day, the Chairperson of CCA further stated that the Council had no authority to extend licenses issued prior to the entry into force of the Audio Visual Code in August 2006. As such, Pro-TV's license would be offered to public tender upon its expiration. On 19 December 2008, a moratorium on the revocation of broadcasting licenses was declared until after the 2009 parliamentary election. This decision was viewed by some political leaders as further increasing the political pressure over TV networks.

1938. Independent media organizations have reportedly been harassed and intimidated in the lead-up to the 5 April 2009 parliamentary elections. Pro-TV was further accused by members of the governing coalition of undermining the rule of law in the country. Pro-TV is the most popular independent television station in the Republic of Moldova and has reportedly expressed critical views about the Government.

1939. The Special Rapporteur expressed his concern that the denial to renew Pro-TV's broadcasting license is related to the editorial content of the programmes it airs, particularly its critical stance towards the Government. Further concern was expressed that the Audio Visual Code may not ensure the independence of regulating authorities such as the Audiovisual Coordination Council.

Urgent appeal

1940. On 17 April 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding **arrests and the use of force by law-enforcement organs in connection with the demonstrations held around the recent parliamentary elections**, and the alleged death of **Ion Tabuleac** and **Valeriu Boboc** of injuries sustained in the course of the demonstrations or shortly afterwards.

1941. According to information received, following the demonstrations of 6 to 8 April 2009, in Chisinau, public security forces had arrested 129 persons. Many of those arrested, including minors, reported that they were subjected to beatings with clubs, plastic bottles filled with water, fists and kicking with feet during their arrest and police custody in district police stations as well as in the General Police Commissariat. Many of the detained persons had physical marks that appeared to corroborate their claims. Furthermore, there were reports of overcrowding and instances of denial of food. Twenty-five or more individuals were held in a cell measuring approximately eight square meters, they were denied food for two days, and had only limited access to water and basic sanitary facilities.

1942. Allegedly, two persons, Ion Tabuleac and Valeriu Boboc, shortly afterwards died of injuries sustained in the course of the demonstrations.

1943. On 11 April 2009, members of the Consultative Council for the Prevention of Torture (National Preventive Mechanism under OPCAT) tried to visit several police stations and penitentiary institutions in Chisinau, where individuals were reportedly being detained and ill-treated. Despite the national legal provisions providing that the Consultative Council must be

granted access to all places of detention without prior notice, the General Police Commissariat of Chisinau as well as the Central District Police Commissariat refused such access. The Consultative Council received information that two women, who had allegedly been severely beaten, were still held in the General Police Commissariat. The Consultative Council was granted access to penitentiary institution No. 13 only after considerable delay.

Responses from the Government

1944. The Special Rapporteur thanks the Government for its responses to the same communication by letters dated 4 May 2009 and 8 June 2009, but at the time this report was finalized, the replies had not yet been translated.

1945. In a letter dated 23 September 2009, the Government responded to the communication sent on 17 April 2009 with additional information as follows.

1946. The events of 7 to 8 April 2009 resulted in disturbances of the public order and violent acts by the participants at demonstrations, which contravene Articles 8(b), (c) and 19(a) of the Law on public gatherings from 22 February 2008.

1947. During the aforementioned demonstrations, police acted according to its mission to safeguard public order, to defend the rights and freedoms of citizens and their property, according to the Universal Declaration of Human Rights, European Convention on Human Rights, Law on police, Law on public gatherings and other national laws and international treaties to which Republic of Moldova is a party.

1948. Therefore, participants which infringed national legal acts were charged administratively in accordance with Article 23 of the Law on public gatherings, while others whose acts cumulated the elements of crime, were charged respectively, their cases being examined in accordance with the criminal procedure legislation.

1949. Following the events of 7 to 8 April 2009 in Chisinau, the Moldovan competent authorities initiated criminal investigations on the basis of articles 285 (“Mass disorder”), 187 (“Robbery”) of the Criminal Code. Following these investigations, 120 persons have been apprehended in the period of 7 to 11 April 2009, on the basis of prosecutors’ ordinances or judicial courts’ decisions. Subsequently, this preventive measure has been changed into non-confinement measures, except seven persons (G. Stati, A. Marinescu, A. Matasar, S. Mocanu, R. Popa, J. Natanyahu and I. Rangu), who were still remanded in custody, suspected of committing the above-mentioned crimes.

1950. During the investigation process, the concerned persons were assisted by defenders (designated or chosen) and, depending on the particular case, by their legal representatives, thus the right to defense fully being assured. Other essential rights provided by national legislation were granted to the apprehended persons: the right to medical assistance, right to formulate requests, right to a translator, right to know the charges which are brought against them, etc.

1951. As to the minors who took part in the demonstrations from 7 to 8 April 2009, the presence of parents or relatives was ensured at the investigation of the cases of law infringements.

1952. In order to exclude acts of torture and ill-treatment, the detention conditions of the persons concerned were checked daily by the prosecutors.

1953. The personal files of people apprehended on administrative charges in the period of April events were examined exclusively by the judicial courts, which issued decisions in this regard.

1954. In the period of 10 to 30 April 2009, on the basis of judicial decisions to demand accused persons in custody, 111 persons (including 4 minors) suspected of crimes prescribed by articles 285 and 187 of the Criminal Code and committed during the acts of violence of 7 April 2009, were transferred to the Penitentiary No.13 of Chisinau.

1955. During the detention in the penitentiary, these persons were granted rights in guaranteed by law. No physical force, other constraints or inhuman treatment was exerted on them. According to article 251 of the Execution Code and paragraph 25 of the Statute regarding the execution of punishment by the convicted, immediately after the transfer of the persons from the police detention facilities to the penitentiary, they were examined by the medical personnel of the penitentiary, which evaluated and documented their state of health, including the existence of any sign of physical injuries and, where needed, medical assistance was granted.

1956. According to the results of investigations, the existence of various physical injuries were registered in respect of 27 detainees from the total number of 111 transferred persons, suspected of participation in acts of violence. Three persons, namely Matasaru Antolie Tudor, Netanyahu Jonattan Jerusalayme, and Ciobaru Radu Gheorghe, were hospitalized at the impatient unit of the medical service of the penitentiary.

1957. Following the medical examinations, the Penitentiary No.13 informed the General Prosecution Office in respect of 27 persons with marks of physical injuries, requesting due investigation of these cases.

1958. As regards the access to the Penitentiary No.13 by the members of the Consultative Council (National Mechanism for Prevention of Torture), it has been granted after relevant verification of their mandate. Representatives of the Consultative Council (National Mechanism for Prevention of Torture), it has been granted after relevant verification of their mandate. Representatives of the Consultative Council had confidential meetings with people suspected of committing acts of violence on 7 April 2009, in accordance with the provisions of the Optional Protocol to the UN Convention against Torture.

1959. Moreover, Penitentiary No.13 has been visited by OSCE representatives, Mr. Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, as well as members of European Parliament delegation, headed by Ms. Marianne Mikko.

1960. In view of ensuring the access to information and transparency within the penitentiary system, the information on releasing from custody on remand of the persons suspected of violence has been made public on the official website of the Department for Penitentiary Institutions, as well as interviews for media regarding the condition of detention and state of health of the arrested persons.

1961. As to the allegations of abuses in respect of apprehended persons in the General Police Directorate of the municipality of Chisinau and the restraints on the activity of the Consultative Council of the Center for Human Rights, the Ministry of Interior investigated the cases indicated by the Rapporteurs as well as those published in the media. The informational files on these cases were sent to the prosecutor office to be examined according to national criminal procedure legislation.

1962. On the basis of Article 274 of the Criminal Procedure code, the prosecutors from the working group examined 91 cases on physical injuries, 64 out of which were initiated following the citizens' complaints and 27 cases of investigation were initiated ex officio on the basis of information from other sources.

1963. There were also cases when defenders complained about alleged ill-treatment of the participants at the events mentioned above by the police officers, but in the course of investigations the respective persons declared that they were not ill-treated did not suffer physical injuries and did not ask for a lawyer.

Urgent appeal

1964. On 22 December 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding Ms. **Tatiana Etco** and Mr. **Victor Mosneag**, journalists working at the weekly newspaper "*Ziarul de Garda (ZDG)*". ZDG is well-known for investigating cases of corruption and human rights abuses. On 10 December 2009, on the occasion of International Human Rights Day, ZDG was awarded the First Prize Human Rights Award by the UN Country Team in Moldova, for its work on a range of human rights issues, including the fundamental rights of women and human rights in the context of the events of April 2009.

1965. According to the information received, from 26 November to 17 December 2009, Ziarul de Garda published a series of four investigative articles. The articles dealt with widespread corruption at the Moldovan national railways and illegal wine exports to the Russian Federation.

1966. Since the publication of the articles, Ms. Tatiana Etco and Mr. Victor Mosneag have been receiving anonymous threats by phone. Threats were received by ZDG as well.

1967. Concern was expressed that the threats received by Ms. Tatiana Etco and Mr. Victor Mosneag might be directly related to their activities in defense of human rights, in particular their investigative journalism into corruption issues. Further concern was expressed regarding the physical and psychological integrity of Ms. Tatiana Etco, Mr. Victor Mosneag, and other employees of ZDG.

Observations

1968. The Special Rapporteur wishes to thank the Government for the detailed response transmitted to his communications, but regrets that at the time the present report was finalized,

no response had been received to the communication of 22 December 2009, 4 March 2009, 8 May 2007, 6 August 2004 and 28 June 2004. He considers response to his communications as an important part of the cooperation of Governments with his mandate, and urges the Government to respond to the concerns raised by him.

Russian Federation

Letter of allegations

1969. On 22 January 2009, the Special Rapporteur, together with the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, Special Rapporteur on extrajudicial, summary or arbitrary executions, Special Rapporteur on the independence of judges and lawyers, Special Rapporteur on the situation of human rights defenders, sent a letter of allegations regarding Mr. **Stanislav Markelov** and Ms. **Anastasia Baburova**. Mr. Stanislav Markelov was a lawyer dealing with various human rights related cases and active in defending victims of enforced disappearances and other human rights violations committed in Chechnya. Mr. Markelov was the lawyer of the family of Ms. Elsa Kungaeva, a Chechen woman abducted and murdered by an officer of the armed forces of the Russian Federation in the year 2000, Mr. Yuri Budanov, and was instrumental in the 2005 conviction of a police officer, Sergei Lapin, who was sentenced to 11 years in prison for the torture and disappearance of a young Chechen man. Mr. Markelov previously also represented the journalist Anna Politkovskaya. Ms. Anastasia Baburova was a freelance investigative journalist working for the newspaper Novaya Gazeta.

1970. Mr. Stanislav Markelov was the subject of an urgent appeal sent by the Special Rapporteur on the independence of judges and lawyers, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the then Special Representative of the Secretary-General on the situation of human rights defenders on 4 May 2004. No response has been received to that communication to date.

1971. According to the information recently received, on 19 January 2009, Mr. Stanislav Markelov was shot dead by a masked gunman near the building where he had previously held a press conference. He was shot in the back of the head at close range. Ms Anastasia Baburova, a journalist who also participated in the press conference and who tried to intervene when Mr. Markelov was attacked, was also shot. She was taken to hospital in a critical condition where she died later of her injuries.

1972. The press conference held by Mr. Markelov was entitled “Unlawful release of Budanov: neglect by the court and direct advantage for militants: who is next?” Mr. Budanov, who had been sentenced to 10 years in prison for the abduction and murder of Ms. Elsa Kungaeva, including time served, in 2003, had been granted an early release on 15 January 2009. Mr. Markelov stated at the press conference his intention to appeal the decision of the court of Dimitrovgrad to reject his appeal concerning Mr. Yuri Budanov’s early release from custody.

1973. Concern was expressed that the killing of Mr. Stanislav Markelov and Ms. Anastasia Baburova may be directly related to Mr. Markelov’s work to defend victims of human rights violations.

Response from the Government

1974. In a letter dated 14 April 2009, the Government responded to the communication sent on 22 January 2009 as follows.

1975. On 19 January 2009, the investigation department of the Moscow central internal affairs investigative committee under the Office of the Procurator of the Russian Federation instituted criminal proceedings in connection with the murders of Mr. S.Y. Markelov, lawyer and President of the Rule of Law Institute, and Ms. A.E. Baburova, freelance journalist for Novaya Gazeta. The investigators are working on a number of theories on the crime, some related to Mr. Markelov's professional activities; according to preliminary findings, there appears to be no link between the murder of Ms. Baburova and her professional activities.

1976. In view of the complexity of the investigation and the need for extensive detective work, and also taking into account the high profile of this criminal case, on 21 January 2009 it was transferred for further case work to the central investigation department of the investigative committee under the Office of the Procurator of the Russian Federation. The Procurator-General of the Russian Federation, Mr. Y.Y. Chaika, is personally monitoring the conduct of the investigation.

Letter of allegations

1977. On 28 January 2009, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary killings, sent a letter of allegations to the Government concerning the recent death of Mr. **Anton Stradymov**, a political activist involved with the banned National Bolshevik Party. The Special Rapporteurs also referred to reports regarding the alleged lack of progress in the investigation and prosecution of a similar case, the death of Mr. Yura Chervochkin, a Parliamentary candidate in the list of the opposition coalition "The Other Russia" and member of the banned National Bolshevik Party.

1978. According to information received, on 14 January 2009, Mr. Anton Stradymov was found in a critical condition near the Vykhino metro station in Moscow. His body was covered with blows. His face was crushed, impeding a prompt identification. His belongings had not been stolen. He was taken to hospital where he subsequently succumbed to his injuries. Anton Stradymov had taken part in a number of opposition demonstrations, including in the "Marches of Dissent" organised by "The Other Russia" coalition.

1979. The violent death of Mr. Anton Stradymov bore resemblances with the death of another member of the banned National Bolshevik Party and of "The Other Russia" coalition, Yura Chervochkin. On 23 November 2007, in Serpukhov, Moscow oblast, Mr. Yura Chervochkin was found unconscious near the entranceway of the building where he lived. He had been severely beaten and died on 10 December 2007 in the Burdenko Research Institute, the clinic where he was hospitalised in a comatose state. An hour before he was found, Mr. Yura Chervochkin had called the office of the kasparov.ru webpage informing that four servicemen of UBOP, a special unit to combat organised crime, were following him and that he had recognised them from previous encounters.

1980. Only after Mr. Yura Chervochkin died, an investigation was launched into the assault. The investigation was suspended in April 2008 on the ground that “there were no suspects”. It was reopened in October 2008 and transferred, without explanations being provided, to the prosecutor’s office of the town of Kashira (Moscow region). There, the investigation was again suspended in November 2008, apparently on the grounds of “lack of operative information”. Yura Chervochkin’s mother has repeatedly tried to obtain information on the progress of the investigation, but was told that no suspects had been apprehended and was turned away.

Response from the Government

1981. In a letter dated 1 April 2009, the Government informed that on 15 January 2009, the investigation unit in the investigative department of the Investigative Committee attached to the Russian Federation Procurator’s Office for Moscow instituted criminal proceedings against an unidentified individual on the basis of evidence of an offence contrary to article 111, paragraph 4, of the Criminal Code (Wilful infliction of serious harm to health) in connection with the serious harm inflicted on the health of Mr. A.Y. Stradymov (born in 1988 and resident in Moscow).

1982. In the course of the preliminary investigation, it was ascertained that on 14 January 2009, between midnight and 5 a.m., in an area adjacent to the property at 20 Krasny Kazanets Street, Moscow, an unidentified individual wounded Mr. Stradymov. He was subsequently taken to hospital in Moscow, where he died without regaining consciousness.

1983. Enquiries into the character of the victim established that Mr. Stradymov was an active member of the unofficial National Bolshevik Party and had been arrested and prosecuted for administrative offences on several occasions.

1984. Currently, investigations are being conducted to identify the persons involved in committing the offence.

1985. On 22 November 2007, near 36 Vodoprovodnaya Street in the town of Serpukhov, Moscow province, at least four unidentified individuals assaulted Mr. Y.M. Chervochkin (born in 1984), who died of his injuries on 10 December 2007.

1986. On 23 November 2007, the investigative department of the Internal Affairs Office for the town and district of Serpukhov, Moscow province, instituted criminal proceedings on the basis of evidence of an offence contrary to article 213, paragraph 2, of the Criminal Code (Criminal mischief) in connection with the assault on Mr. Chervochkin.

1987. The case was taken over by the chief of the investigation unit for the town of Serpukhov in the investigative department of the Investigative Committee attached to the Russian Federation Procurator’s Office for Moscow province on 13 December 2007, since the actions of the unidentified individuals were deemed to contain elements of the offence stipulated in article 111, paragraph 4, of the Criminal Code (Infliction of serious harm to health resulting in the death of the victim). The criminal case was subsequently referred for investigation to the same investigative department’s investigation unit for the town of Kashira. The pretrial investigation into the case has been suspended several times, most recently on the basis of article 208, paragraph 1 (1), of the Code of Criminal Procedure (owing to the failure to identify persons

against whom charges could be brought), although that decision was subsequently overturned. The necessary investigative and other procedural actions are being carried out in order to identify the persons involved in committing the offence.

1988. With a view to shedding light on the offence, the victim's close associates have been identified, and his activities in the National Bolshevik Party and Other Russia coalition, of which he was the coordinator for Moscow's southern suburbs, are being studied.

1989. Mr. Chervochkin's mother, Ms. N.G. Chervochkina, has been recognized as a victim in the criminal case, and her rights under the Russian law on criminal procedure have been explained to her. Ms. Chervochkina has made no representations during the investigation. Following the post mortem, Mr. Chervochkin's body was handed over to his mother for burial.

1990. To date, no one against whom charges can be brought for inflicting serious harm to health resulting in the deaths of Mr. Stradymov and Mr. Chervochkin has been identified. The pretrial investigations into these criminal cases are continuing; the progress made is being monitored by the procuratorial offices for Moscow and Moscow province, as well as by the Criminal Investigation Department of the Central Internal Affairs Administration for Moscow and Moscow province. In accordance with article 161 of the Code of Criminal Procedure, details of a preliminary investigation may be made public only with the authorization of a procurator, investigator or person conducting a pretrial inquiry and only to the extent that he or she deems permissible.

Urgent appeal

1991. On 6 April 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal concerning Mr. **Lev Ponomarev**, a prominent human rights defender and director of 'Za Prava Cheloveka' (For Human Rights), an all-Russia public movement covering a wide range of human rights violations, including abuses in the prison system, pensioners' and children's rights and human rights violations in the North Caucasus. Mr. Ponomarev was the subject of an allegation letter sent by the then Special Representative of the Secretary-General on the situation of human rights defenders and the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 6 October 2006, and of a joint urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders on 24 February 2004.

1992. According to the information received, at approximately 11 pm on 31 March 2009, Mr. Ponomarev was attacked and seriously injured by three unknown assailants near the entrance of his apartment building in Moscow. The attack came as Mr. Ponomarev returned home from a meeting with a member of the Parliamentary Assembly of the Council of Europe. The unknown assailants have reportedly been waiting for him nearby, and kicked him and beat him with batons. After the concierge of the apartment building appeared, the attackers fled the scene. Mr. Ponomarev was taken to hospital No 36 where he received emergency treatment. Although he has since been released from hospital, he remains under medical observation.

1993. Mr. Ponomarev has received several threats even before the 31 March assault. The tires of his car had been slashed twice in the weeks before the attack, and the Wikipedia entry about him had been modified by unknown authors predicting that he would die from an attack.

1994. Concern was expressed that the assault against Mr. Lev Ponomarev is directly related to his work in the defence of human rights. Further concern was expressed that according to the information received, no investigation has been launched into the attack against Mr. Ponomarev.

Response from the Government

1995. In a letter dated 12 May 2009, the Government responded to the communication sent on 6 April 2009 as follows.

1996. In the course of investigations into the attack on L.A. Ponomarev, the director of the non governmental organization “For human rights”, it was established that at 22.30 on 31 March 2009 unidentified persons attacked L.A. Ponomarev near the entrance to block 4, Svobodny Prospekt in Moscow, causing multiple injuries and abrasions to his head and ribcage, and then fled the scene.

1997. A criminal prosecution, No. 76640, has been instituted by the principal investigation unit at the main department of internal affairs for Moscow, for an offence under article 116, section 2 (a) of the Criminal Code of the Russian Federation (assault).

1998. A number of explanations for this incident have been suggested relating to the victim himself and the circumstances of the crime, including the human rights work of L.A. Ponomarev.

1999. At the present time the investigation is continuing and the operational investigative measures being deployed are intended to establish the identity of the persons guilty of the assault. The progress of the investigation is being followed up by the Criminal Investigation Department of the Russian Ministry of Internal Affairs.

Urgent appeal

2000. On 20 July 2009, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government concerning the killing of Ms **Natalia Estemirova**. Ms Estemirova was a prominent human rights defender and researcher working with the Russian NGO Memorial. Ms Natalia Estemirova received several prizes for her outstanding work, including the “Right to Life” award from the Swedish Parliament; the Robert Schuman Medal of the European Parliament and the Anna Politkovskaya prize.

2001. According to the information received, on the morning of 15 July 2009, Ms Natalia Estemirova was kidnapped in front of her house in Grozny. According to eyewitness reports, Ms Estemirova was dragged into a white vehicle and driven away by unknown individuals.

2002. Her body was later found in the woods near the city of Nazran, in Ingushetia. She had sustained two gunshots to her head and chest.

2003. The mandate holders expressed their concern that the kidnapping and subsequent murder of Ms Natalia Estemirova might be directly related to her activities in the defense of human rights, in particular her fact-finding carried out into human rights abuses, such as summary executions, enforced disappearances and torture committed in the Chechen Republic. They acknowledged the expressions of outrage and assurances by the Government that all necessary steps will be taken to apprehend and punish Mrs. Estemirova's killers. However, they remained concerned that the killing of Ms Natalia Estemirova formed part of a pattern of similar cases, including the murder of Ms Anna Politkovskaya, Mr. Stanislav Markelov and Ms Anastasia Baburova, which, coupled with the prevailing impunity, had the potential of gravely stifling independent human rights work and freedom of expression in the country.

Response from the Government

2004. In a letter dated 27 August 2009, the Government responded to the communication sent on 20 July 2009 as follows. Further to your request for details and on the status and progress of the investigation into the murder of N.K. Estemirova, a member of the Memorial human rights centre, we wish to transmit the following information.

2005. The preliminary investigation established that on 15 July 2009, Ms. Estemirova, a member of the Memorial human rights centre, Grozny branch, left her apartment at about 7.35 a.m. and was making her way to public transport to go to work at the Memorial office, located at 84 Mayakovsky Street in Grozny. At Building No. 10, 133 Khmel'nitsky Street, unidentified persons dragged her into a white VAZ 2107 vehicle and drove away to an unknown destination.

2006. The Leninsky inter-district investigative team for Grozny, a unit of the investigative department for the Chechen Republic working under the Investigative Committee attached to the Procurator's Office of the Russian Federation, instituted criminal proceedings under article 126, paragraph 2 (a) and (c), of the Russian Criminal Code on 15 July 2009.

2007. It was on that day that, at 4.30 p.m., Ms. Estemirova's body was found with two gunshot wounds to her head and two to the torso in a wooded area some 200 metres from the Kavkaz federal highway near the village of Gazi-Yurt in the Nazran district, Republic of Ingushetia. Her passport and her purse containing personal items, including two switched-off mobile phones, were found lying beside her.

2008. On the same day, 15 July 2009, the Nazranovsky inter-district investigative team for Nazran, a unit of the investigative department for the Republic of Ingushetia working under the Investigation Committee of the Procurator's Office of the Russian Federation, opened a criminal case under article 105, paragraph 1, and article 222, paragraph 1, of the Russian Criminal Code.

2009. On 16 July 2009, the criminal cases were transferred to the Central Investigative Department for the Southern Federal District under the Investigative Committee attached to the Procurator's Office of the Russian Federation and combined into one case.

2010. Searches were carried out on the grounds of Building No. 10, 133 Khmelnitsky Street, Grozny; at the site where the body was discovered; in the office of the Grozny branch of Memorial; and at Ms. Estemirova's place of residence, where material evidence that is now undergoing the necessary forensic analysis was gathered.

2011. The investigation has involved:

- Carrying out three re-enactments of the crime to establish how long it might take a light vehicle to go from the spot where Ms. Estemirova was abducted to the site where her body was found
- Obtaining and analysing video surveillance footage to find the white VAZ 2107 and a green VAZ 2112 resembling the one that accompanied the vehicle used in the crime against Ms. Estemirova
- Identifying vehicles that may be relevant to the investigation and authorizing bodies of the Russian Ministry of Internal Affairs to trace their owners and check for involvement in the crime
- Showing witnesses photographs of makes of the vehicles that drove away from the spot where Ms. Estemirova was abducted on the morning of 15 July 2009
- Re-enacting what might have been seen from the apartment from which a person had witnessed vehicles coming and going
- Obtaining vehicle registration records
- Confiscating and incorporating in the case materials DVDs of video surveillance footage from several checkpoints; the information on the DVDs is currently being reviewed and analysed
- Arranging for 16 different forensic analyses, the initial results of which are being reviewed and compared with other evidence obtained in the case
- Gathering and analysing information on Ms. Estemirova's mobile phone contacts.

2012. Moreover, 263 witnesses have been questioned. A range of investigative and operational activities to identify the perpetrators of the crime is currently under way. The Investigative Committee of the Procurator's Office of the Russian Federation is overseeing the progress and outcome of the investigation.

Urgent appeal

2013. On 24 August 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding the situation of Mr. **Akhmed Gisayev**, employee of Memorial, and more generally of **other staff members of Memorial**, a non-governmental organization which monitors the situation of human rights in post-Soviet States.

2014. According to information received, in the evening of 13 August 2009, Mr. Gisayev and his wife were reportedly stopped near their flat in Grozny by a group of three to four armed men. They pointed their guns at Mr. Gisayev and asked for his documents. They refused to identify themselves or justify the search. Mr. Gisayev showed his Memorial ID card and explained that he worked there. One of the armed men then said: “And it’s your colleagues who are getting killed? And do you know why they’re getting killed”? They then returned his passport and left.

2015. The following day, in the morning of 14 August, a passport check-and-search operation was reportedly conducted on Mr. Gisayev’s street by Russian military and local security personnel. On this occasion, his apartment was allegedly searched by men amongst whom were some who had threatened him the previous day.

2016. Prior to these events, Mr. Gisayev had noticed a car parked next to his apartment on several occasions. The car had dark windows and a number-plate not used for civilian vehicles, which led him to believe that it could belong to the security services. Mr. Gisayev started noticing suspicious vehicles outside his apartment a few days after the first week of July when Memorial appealed to the local Prosecutor’s office on a sensitive human rights case of alleged abduction and torture he was investigating with his former colleague since deceased, Ms. Natalia Estemirova.

2017. Mr. Gisayev reported these incidents to the Prosecutor’s office in Chechnya, but no measures have apparently been taken to investigate the situation or to protect Mr. Gisayev.

2018. Furthermore, since mid-July, Memorial’s Grozny Office has allegedly been monitored by local security services. At least three Memorial staff members have claimed to have been followed by people in suspicious cars. Russian military officials in Grozny have allegedly threatened Memorial staff to watch out for danger.

2019. Concern was expressed that the aforementioned threats and incidents might be directly related to the work of Mr. Gisayev and Memorial in defense of human rights. In view of the fact that these incidents come after the murders of three human rights defenders in Chechnya including Ms. Natalia Estemirova, Memorial Grozny’s leading researcher, who was the subject of an urgent appeal sent on 20 July 2009 by six thematic special procedures, further concern was expressed for the physical and psychological integrity of Mr. Gisayev and other staff members of Memorial.

Response from the Government

2020. In a letter dated 19 November 2009, the Government informed that on 3 September 2009, the chief investigative department of the investigative committee attached to the Procurator’s Office of the Russian Federation responsible for the southern federal area received an application from the chairman of the council of experts attached to the Office of the Commissioner on Human Rights in the Russian Federation regarding threats to and the shadowing of A.K. Gisayev, a staff member of the Memorial centre, by unknown persons.

2021. In the course of examining this application, the owner of the Volga was ascertained, the vehicle from which, according to A.K. Gisayev, he had been observed. The owner turned out to be an employee of the Department of the Federal Russian Penal Correction Service in the

Chechen Republic who, at the time indicated by Gisayev, was visiting his parents at the address stated by the applicant. This being so, no shadowing or observation of A.K. Gisayev occurred.

2022. It was however established that, on 14 August 2009, members of the militia conducted passport controls, in accordance with the established procedure, in the street where A.K. Gisayev's home is situated. No unlawful action by the employees of internal affairs agencies was committed in this connection. No inspection officers called at the block of flats where A.K. Gisayev and members of his family live, passports were not checked and the residents were not disturbed. This fact was corroborated by the testimony of K.A. Gisayev (Akhmed Gisayev's father).

2023. The head of the temporary task force of the sections and subdivisions of the Ministry of Internal Affairs of Russia for the southern federal area was informed about the parked VAZ 2107 and VAZ 21099 and the people in those vehicles who, according to information quoted in the application, searched A.K. Gisayev and checked his passport on 13 August 2009.

2024. Up until now the investigative authority has not had the opportunity to question A.K. Gisayev, as he has left the Chechen Republic. In a telephone conversation with an investigator from the chief investigative department of the investigative committee for the southern federal area, A.K. Gisayev reported that he had left the Chechen Republic for his own safety.

2025. The arguments set forth in the application regarding threats to A.K. Gisayev will be subjected to further scrutiny in the course of the criminal inquiries into the murder of N.K. Estermirova.

2026. According to the application of members of the council of experts attached to the Office of the Commissioner on Human Rights in the Russian Federation regarding threats from unknown persons to staff members of the human rights defence centre Memorial in Grozny, on 18 August 2009 the Ministry of Internal Affairs for the Chechen Republic adopted the appropriate measures to ensure the safety of staff members of the human rights defence centre Memorial who are active in the territory of the Chechen Republic.

Urgent appeal

2027. On 25 August 2009, the Special Rapporteur, together with the Vice-Chairperson Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding the situation of Mr. **Aleksei Sokolov**. Mr. Sokolov is the Head of "Pravovaya Osnova" (Legal Basis), an organization which campaigns against torture and other ill-treatment of people held in the Russian Federation's places of detention, and a member of the civic supervisory committee on places of detention appointed by the Russian Federation Parliament.

2028. According to the information received, on 31 July 2009, Mr. Sokolov was discharged from pre-trial detention by the Sverdlovsk Regional Court in the Russian Federation in relation to an investigation for his alleged participation in a robbery in 2004. He was immediately re-arrested on suspicion of theft in another case allegedly committed in 2004. He is now accused of

having stolen two million rubles from the office of a company in Yekaterinburg, as part of an organized group that was allegedly led by his brother, Mr. Aleksander Sokolov. The latter was sentenced in 2008 to ten years and a half in prison for a series of burglaries.

2029. On 4 August 2009, the Yekaterinburg District Court ordered that Mr. Sokolov should be remanded in custody for two months to await trial. The hearing was held in closed session.

2030. During the hearing, the judge agreed with the prosecutor that Mr. Sokolov, as a member of the civic supervisory committee on places of detention, could have met and influenced the men convicted of theft in 2004. The prosecution had obtained witness statements incriminating Mr. Sokolov. However, the detention records did not specify who those witnesses were. The judge decided to remand Mr. Sokolov in custody although his membership in the supervisory committee had been suspended in May 2009.

2031. When Mr. Sokolov had first been arrested on suspicion of robbery, police had allegedly pressured prisoners into making incriminating statements against him. Furthermore, Mr. Sokolov reported to his lawyer that he was subjected to threats of torture during his first pre-trial detention to punish him for carrying out human rights activities.

2032. Concern was expressed that the new charges brought against Mr. Sokolov and his detention might be directly related to his work in defense of human rights. Given the alleged threats of torture against Mr. Sokolov during his previous pre-trial detention, further concern was expressed for his physical and psychological integrity.

Response from the Government

2033. In a letter dated 19 November 2009, the Government responded to the communication sent on 25 August 2009. At the time of finalizing the present report, a translation of the response was not yet available.

Urgent appeal

2034. On 26 August 2009, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal to the Government regarding Mr. **Mikhail Afanasyev** editor-in-chief of online magazine *Novy Fokus*.

2035. Mr. Afanaysev was the subject of an allegation letter sent to the Government on 14 August 2007. A response was received from the Government on 18 October 2007.

2036. According to new information received, on 19 August 2009, Mr. Alfanasyev was charged with defamation by the office of the Prosecutor General in Abkhan, the capital of the Republic of Khakassia in southern Siberia. The charges are reportedly linked to a blog entry published by Mr. Alfanasyev, along with his colleagues Mr. Eric Chernyshov and Mr. Grigory Nazarenko, about an explosion at Sayano-Shushenskaya power plant in Khakassia on 17 August. The article published by Mr. Alfanasyev challenged the response by the Russian Government to the tragedy in which dozens of workers at the plant were reportedly killed. Following the publication of the report the journalists' computers, cellular phones, and Mr. Afanasyev's apartment keys were confiscated by the authorities.

2037. Initial reports from state-controlled media and Government officials claimed that up to 15 workers had died as a result of the explosion. The report produced by Mr. Afanasyev and his colleagues stated that as many as 100 may have died in the accident and offered advice as to how rescue plans could have been implemented to save lives. Mr. Afanasyev and his two colleagues reportedly interviewed families and colleagues of the power plant workers to determine the death toll. The journalists then called on Russian bloggers and the press to distribute their report.

2038. Regional prosecutors stated in an official press release that Mr. Afanasyev is to be charged with slander for having “knowingly distributed false information that defames the honor, dignity, and business reputation of the regional authorities and plant management.” The charges were issued following an interview published in state owned Rossiyskaya Gazeta in which Emergency Situations Minister, Mr. Sergey Shoigu reportedly said that those “who spread panic in the region” should be severely punished. If convicted, Mr. Afanasyev faces up to three years in prison.

2039. Mr. Afanasyev has apparently faced a number of previous criminal libel charges in the past. On 17 June 2007 Mr. Afanasyev was attacked by two men who identified themselves as police officers. The assailants stole his identification documents, two cellular phones and his jacket, but did not touch any other valuables at the time. An investigation was launched into the attack in 2008.

2040. Concern was expressed that the aforementioned events may represent an attempt to prevent independent reporting in Russia, thus stifling freedom of expression in the country.

Response from the Government

2041. In a letter dated 19 November 2009, the Government informed that on 19 August 2009, further to a supplementary examination, the investigation section of the Department of Internal Affairs in Abakan, the Republic of Khakassia, opened criminal case No. 363525, on the grounds of the crime referred to in article 129, paragraph 3, of the Criminal Code of the Russian Federation, against M.V. Afanasyev, the editor of the online magazine Novy Fokus, for spreading reports besmirching the honour and dignity of N.I. Nevolko, the director of the P.C. Neporozhny hydroelectric power station at the Sayano-Shushenskoe reservoir, which belongs to the Rushydro joint stock company and A.A. Firsov, the head of the Department of Civil Defence and Emergency Situations in the Republic of Khakassia.

2042. As a result of the inquiry, on 28 August 2009, the above-mentioned criminal proceedings against M.V. Afanasyev were discontinued under article 24, paragraph 1 (2), of the Code of Criminal Procedure of the Russian Federation, as his actions did not constitute the crime referred to in article 129, paragraph 3, of the Russian Criminal Code.

2043. On 15 June 2007, the crimes referred to in article 116, paragraph 2, (assault) and article 158, paragraph 2 (c), (theft) of the Russian Criminal Code were committed against M.V. Afanasyev.

2044. Further to a supplementary examination, the Department of Internal Affairs in Abakan, the Republic of Khakassia, instituted criminal proceedings against A.V. Krivolutskov for assaulting M.V. Afanasyev and stealing his property. On 10 December 2008 criminal

proceedings against A.V. Krivolutskov were discontinued by the judges of the Abakan municipal court on the grounds of the conciliation of the parties pursuant to article 25 of the Russian Code of Criminal Procedure.

2045. In addition, the investigation section of the Department of Internal Affairs in Abakan, the Republic of Khakassia, instituted criminal proceedings on the grounds of the crime referred to in article 116, paragraph 2 (a) of the Russian Criminal Code for the assault of M.V. Afanasyev by unknown persons.

2046. The requisite investigations and inquiries are currently being conducted in order to establish who the unknown persons were who committed the crime. They have not yet been identified.

2047. There are no facts showing that the crimes against M.V. Afanasyev were connected with his journalistic activities.

2048. The findings of the investigations are being monitored by the Procurator's Office of the Republic of Khakassia. The Procurator's Office of the Republic of Khakassia has not received a complaint from M.V. Afanasyev about the actions of any public officials of the Republic of Khakassia.

Letter of allegations

2049. On 28 August 2009, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary killings, sent a letter of allegations to the Government in relation to the killing of Mr. **Abdulmalik Akhmedilov**, newspaper editor of Hakikat (the Truth) and Sogratl.

2050. According to information received, on 11 August 2009 at around 13:00, Mr. Akhmedilov was found dead in his car near Dagestan's capital, Makhachkala, with bullet wounds to the stomach. Although the details surrounding the killing were still unclear, reports suggested that Mr. Akhmedilov's murder was linked to his work as a journalist. As deputy-editor of the Avar-language weekly Hakikat, Mr. Akhmedilov was known for his critical reporting on attempts by the local and federal authorities to suppress political and religious "extremism", as well as his investigative articles about the unsolved assassinations of high-ranking officials in Dagestan. Reports claim that on the day of his murder, Mr. Akhmedilov took his car to a local shop to buy an item for his wife. A suspicious vehicle without a number plate was allegedly seen driving in the area prior to the shooting.

2051. Concern was expressed that Mr. Akhmedilov may have been targeted as a result of exercising his right to freedom of opinion and expression. Further concern was expressed regarding the safety of journalists in the Russian Federation and Dagestan in particular.

Responses from the Government

2052. In a letter dated 19 November 2009, the Government informed that on 11 August 2009, at 1.15 p.m., M.D. Akhmedilov was driving through a suburban housing estate in Makhachkala in the car belonging to him, a VAZ 2112. At that point unknown persons in a car drew level with

him, shot him dead with a firearm while on the move and then escaped from the scene of the incident.

2053. The investigative section for the Lenin district of Makhachkala of the investigative department of the Investigative Committee attached to the Procurator's Office of the Russian Federation for the Republic of Dagestan instituted criminal proceedings in this matter on the basis of the crime provided for in article 105, paragraph 1 (murder) and article 222, paragraph 1 (unlawful circulation of a weapon) of the Criminal Code of the Russian Federation.

2054. Given who the victim was and the circumstances of the crime, several possible leads have been put forward and are being tested. The lead linked to M.D. Akhmedilov's professional activities is being given priority.

2055. In order to clear up this crime, a standing task force has been set up, whose members are conducting the necessary operative investigations to find out who was involved in the murder.

2056. The results of the inquiries are being monitored in the Office of the Procurator-General of the Russian Federation.

Letter of allegations

2057. On 14 September 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on extrajudicial, summary or arbitrary executions sent a letter of allegations to the Government concerning the assassination of human rights defender, **Ms. Zarema Sadulayeva** and her husband **Mr. Alik (Umar) Lechayevich Dzhabrailov**. Ms. Sadulayeva was the director of the non-governmental organization Save the Generation, an organization which works to provide physical and psychological support for vulnerable children in Chechnya. The organization also works closely with UNICEF, promoting and protecting the rights of disabled people and providing education and training in relation to landmines.

2058. According to information received, on 10 August 2009, at approximately 2:00 p.m., unidentified armed men, who claimed to be members of the security services entered the offices of Save the Generation, and ordered Ms. Sadulayeva and Mr. Dzhabrailov to accompany them. Shortly afterwards, the men returned to the offices and took Mr. Dzhabrailov's mobile phone and his car.

2059. On 11 August 2009, at approximately 4 a.m., the bodies of Ms. Sadulayeva and her husband, Mr. Dzhabrailov, were discovered in the boot of a car on Mansurov Street, near Grozny. They had sustained gunshot wounds to the head and chest. An investigation into the murder has reportedly been opened.

2060. Grave concern was expressed that the assassination of Ms. Sadulayeva and her husband Mr. Dzhabrailov are directly related to the work Ms. Sadulayeva carried out in defense of human rights. Further concern was reiterated that these murders are part of an ongoing pattern of attacks and intimidation of human rights defenders in the country. These murders are the latest in a series of attacks on human rights defenders, journalists and lawyers in Chechnya which have a

seriously intimidating and detrimental effect on the work of human rights defenders in the country. Just over a month ago, Ms. Natalia Estemirova, a member of the non-governmental organization Memorial was abducted and murdered. Over the last twelve months, human rights defenders Ms. Anna Politkovskaya, Mr. Stanislav Markelov and Ms. Anastasia Baburova were also assassinated.

Response from the Government

2061. In a letter dated 17 November 2009, the Government informed that on 10 August 2009, a local resident, L.K. Dzhabrailov, contacted the Lenin district duty section of the Department of Internal Affairs in Grozny and reported that at 2 p.m. his son A.L. Dzhabrailov and his daughter-in-law Z.A. Sadulayeva had been abducted from the office of the United Nations Children's Fund (UNICEF) (86, Mayakovsky Road, Grozny) by five unknown persons armed with automatic firearms.

2062. The unknown persons drove the couple away in a VAZ 2110, but one of the assailants drove off in A.L. Dzhabrailov's VAZ 2107, which was parked near the office.

2063. On 11 August 2009, the Lenin inter-district investigative section of the Grozny investigative department of the Investigative Committee attached to the Procurator's Office of the Russian Federation responsible for the Chechen Republic instituted criminal proceedings in connection with this incident on the basis of the crime defined in article 126, paragraph 2 (a) and (g) of the Criminal Code of the Russian Federation.

2064. On the same day, when the car was examined at the entrance to the grounds of the Republic's rehabilitation centre in Grozny, the corpses of Z.A. Sadulayeva and A.L. Dzhabrailov were found displaying signs of a violent death from gunshot wounds.

2065. In connection therewith the Zavodsk inter-district investigative section of the Grozny investigative department of the Investigative Committee attached to the Procurator's Office of the Russian Federation responsible for the Chechen Republic instituted criminal proceedings on the grounds of the crimes defined in article 105, paragraph 2 (a) and (g) and article 222 of the Criminal Code of the Russian Federation.

2066. On 12 August 2009 the above-mentioned criminal cases were joined and referred for further investigation to the department for the investigation of especially important cases of the investigative department of the Investigative Committee attached to the Procurator's Office of the Russian Federation responsible for the Chechen Republic.

2067. The investigation established that A.L. Dzhabrailov had previously belonged to an illegal armed gang and that in 2006 he had been sentenced to four years' imprisonment for membership of an illegal armed gang and for unlawful possession of firearms. He had been released early on 8 February 2008.

2068. Given whom the victims were and the circumstances of the crime, the investigation is working on various leads. The version that the killing of A.L. Dzhabrailov and Z.A. Sadulayeva was linked to her recent professional activity has, however, been deemed improbable insofar as the organization which she headed was a charity that operated in accordance with its rules and

political issues were not part of its remit. The version connected with A.L. Dzhabrailov's past (the crime was committed by unknown persons out of revenge) is more probable.

2069. The requisite investigations and inquiries are being conducted in order to establish who committed this crime.

Observations

2070. The Special Rapporteur wishes to thank the Government for the detailed and timely responses provided to his communications.

Saudi Arabia

Urgent appeal

2071. On 21 January 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding Mr. **Khaled Suleyman Al Omeir**, aged 39, resident at Hai Badr in Riyadh, and a human rights defender. According to the allegations received.

2072. Mr. Khaled Suleyman Al Omeir was arrested by the security service (Al Mabahit) in Riyadh around noon on 1 January 2009, taken to Al Hayr prison, and has since then been detained incommunicado without any contact with the outside world. The arrest followed an attempted peaceful demonstration by a number of human rights defenders on 1 January 2009 to protest against the bombings of civilians in Gaza.

2073. Mr. Al Omeir had been arrested previously, on 25 April 2005, following an interview with Al Jazeera television, during which he expressed his views about the political situation in the region. At that time, he remained in detention at Al Alichia prison for six months, during which he was ill-treated. He was subsequently released without any legal proceedings having taken place.

2074. With a view to the allegations that Mr. Al Omeir is being held incommunicado, grave concern was expressed for his physical and mental integrity.

Response from the Government

2075. On 8 September 2009, the Government responded to the urgent appeal. The Government indicated that Mr. Al Omeir was detained on a security-related charge that necessitated his remand in custody for questioning. He will be referred to the judiciary to determine the legal measures to be taken against him. Throughout the period of his detention he has been treated in accordance with the Kingdom's judicial regulations, derived from the Islamic Shari'a, under which human rights and international covenants and conventions in this regard are respected.

Urgent appeal

2076. On 15 June 2009, the Special Rapporteur, together with Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding Mr. **Saud al-Hashimi**, Mr. **Al-Sharif Saif Al-Ghalib**, Mr. **Musa al-Qirni**, Mr. **Abdel Rahman al-Shumayri**, Mr. **Fahd al-Qirshi**, Mr. **Abdel Rahman Khan** and Mr. **Abdelaziz al-Khariji**. Some of the individuals mentioned were the subject of a communication sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on Human Rights and counter terrorism, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture and the then Special Representative of the Secretary-General on the situation of human rights defenders on 8 February 2007. According to the information received:

2077. Dr. Saud al-Hashimi has been on hunger strike since 1 June 2009, at Dhahban prison in western Saudi Arabia. On 5 and 6 June, he was stripped of clothes, save for his underwear, shackled, dragged from his cell and placed in a very cold cell for some five hours, as a result of refusing to consume food. He is reportedly in need of medical treatment.

2078. Dr. Saud al-Hashimi, Mr. Al-Sharif Saif Al-Ghalib, Dr. Musa al-Qirni, Dr. Abdel Rahman al-Shumayri, Mr. Fahd al-Qirshi, Mr. Abdel Rahman Khan and Mr. Abdelaziz al-Khariji remain in detention without charges or a trial. They were arrested in February 2007 and have since been held in solitary confinement at Dhahban prison. They were allegedly arrested after they circulated a petition calling for political reform and proposing the establishment of an independent human rights organization in Saudi Arabia.

2079. Concern was expressed for the physical integrity of Dr. Saud al-Hashimi. Concern was also expressed for the physical and psychological integrity of Mr. Al-Sharif Saif Al-Ghalib, Dr. Musa al-Qirni, Dr. Abdel Rahman al-Shumayri, Mr. Fahd al-Qirshi, Mr. Abdel Rahman Khan and Mr. Abdelaziz al-Khariji, due to their prolonged detention in solitary confinement.

Response from the Government

2080. On 9 September 2009, the Government responded to the urgent appeal. The Government indicated that the above-mentioned persons were arrested and charged with engaging in activities involving the collection of donations in an illicit manner and the smuggling and transmission of funds to bodies suspected of using such funds to deceitfully incite Saudi citizens into travelling to locations where disturbances are taking place. This was announced officially and the said persons are currently being treated in accordance with the Kingdom's judicial standards, which respect human rights, prohibit injustice, comply with international rules and conventions, permit visits by relatives, ensure that no physical or mental humiliation or harm is inflicted on the accused and guarantee them a fair trial. Those against whom the charges are substantiated will be referred to the Kingdom's judicial authority, which is well known for its independence and is the only body competent to adjudicate in all crimes, determines penalties after conviction and hand down a final judgment on the accused. It is noteworthy that the said persons, some of whom are being treated in hospital, are currently receiving full health care and their families are likewise enjoying all aspects of care (health, social and financial).

Letter of allegations

2081. On 2 February 2010, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations on concerning threats made against **members of the Shi'a community in the Kingdom of Saudi Arabia**.

2082. According to the information received, Mr. Mohammed Al-Arifi, who has been appointed by the Ministry of Religious Affairs as Imam of Riyadh mosque, delivered a Friday prayer speech in Al-Bourdi mosque on 1 January 2010 in which he called for the elimination of all Shi'a believers in the world, including those residing in the Kingdom of Saudi Arabia. Furthermore, Mr. Al-Arifi stated that Shi'a believers were not true Muslims, their doctrine was based on blasphemed principles and that they were remnants of an old Persian religion. Mr. Al-Arifi called Shia's "traitors" and argued that their affiliation was to Iran rather than to their respective countries. One week earlier, Mr. Al-Arifi, while wearing a Saudi military uniform, had reportedly urged the Saudi soldiers in the border area to Yemen to kill all Shia's they can see in their fight against al-Houthi rebels. Reportedly, the Saudi authorities have not taken any legal action against Mr. Al-Arifi, who continues to receive a monthly salary from the Government and still delivers speeches on national television and radio. In addition, Mr. Al-Arifi's speeches are available online on Internet websites.

Letter of allegations

2083. On 26 February 2010, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations regarding the **Saudi Society of Labour**. The Saudi Society of Labour is a human rights organization which works to protect the rights of workers.

2084. According to the information received, it is alleged that the Saudi Society of Labour has been trying to register since 2007. In May 2007, after having requested a meeting with the Minister of Labour to discuss their application for registration, the founders of the Saudi Society of Labour were allegedly told to give up by the Head of the Minister's office.

2085. On 8 July 2007, Mr. Alansari publicly raised the issue in the Newspaper Al-Madina. Following this publication, he was allegedly summoned by the Ministry of Labour and told to formally apologize since he had no right to criticize the Ministry in the media.

2086. In November 2008, the Ministry of Labour refused to grant the second registration application of the Saudi Society of Labour. Mr. Alansari was then allegedly called by the office of the Minister of Labour and told the registration was refused since there were other bodies already working on similar issues.

2087. In mid 2008, during a meeting at the Ministry of Social Affairs the founders of the Saudi Society of Labour were allegedly told the Ministry was only mandated to authorize philanthropic and cooperative societies.

2088. At the end of 2008, the founders formally submitted a complaint to the National Commission of Human Rights. The latter told the founders that they should wait until the creation of a commission specialized in regulating civil society organizations which would review their complaint. It is alleged that this commission has yet not been established.

2089. On 31 January 2010, Mr. Anice Alansari, the President of the Saudi Society of Labour made a public statement to the press denouncing the continued refusal by Saudi authorities to register the Saudi Society of Labour.

2090. Concern was expressed that the repeated refusal by Saudi authorities to register the Saudi Society of Labour might be directly related to its legitimate work in defense of human rights and notably the right to work.

Observations

2091. The Special Rapporteur wishes to thank the Government for its replies. The Special Rapporteur is looking forward to receiving further updated information on these cases including detailed information regarding prosecutions and judicial proceedings against the above-mentioned persons.

2092. The Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted any reply to various communications sent in 2010, 2008, 2006, 2005 and 2004. He considers response to her communications as an important part of the cooperation of Governments with his mandate, and urges the Government to respond to the concerns raised by him.

Serbia

Letter of allegations

2093. On 21 January 2009, the Special Rapporteur, together with Special Rapporteur on the situation of human rights defenders, sent a letter of allegations to the Government concerning members of the NGO Queeria, which advocates for the human rights of lesbian, gay, bisexual and transgender people in the Republic of Serbia.

2094. According to the information received, on 17 December 2008, the organization Naši (Ours), allegedly put up posters in central Belgrade, containing messages against Queeria. The posters showed a photograph of Queeria's president, Mr. **Boban Stojanovic**, stating "While Serbs are being laid off, look who is being financed by Boris Tadic and the government of Serbia. The Serbian Ministry of Culture within a tender for projects in the field of public information has recently granted 256.000 dinars for the website Queeria centre which is promoting gay rights and slandering the Serbian Orthodox Church in the most despicable way. Is this what the democrats were promising before the election?" The posters showed homoerotic images of the leaders of Queeria.

2095. Apart from the poster campaign, Queeria receives daily death threats and threats of physical violence on their website and official email address since it was granted financial support by the Ministry of Culture of the Republic of Serbia. Activists of Queeria are also frequently targeted on the website 'Stormfront', and on the community website Facebook.

2096. Concern was expressed for the physical and psychological integrity of the members of the NGO Queeria. Further concern was expressed regarding the apparent lack of investigation and prosecution into the death threats and threats of physical violence against Queeria activists. Additional concern was also expressed regarding the use of a combination of personal images of activists, sexualized personal insults and inflammatory language on the posters in question.

Response from the Government

2097. In a letter dated 29 April 2009, the Government responded to the communication sent on 21 January 2009 as follows.

2098. According to information received from the Serbian Ministry of the Interior (MUP), Queeria's president, Mr. Bojan Stojanovic, has not lodged a formal complaint to the police regarding the alleged incident, but has, instead, brought it to the attention of non-governmental and international organizations. However, Serbia's Ministry for Human and Minority Rights has brought this case to the attention of the Republic's Public Prosecutor. The allegation letter has been referred to the Special Prosecutor in charge of cybercrime with the District Public Prosecutor's Office in Belgrade, who is responsible for the prosecution of such cases in all the territory of the Republic of Serbia. It was recommended that pre-trial proceedings be instituted in order for the police (MUP) to investigate a certain Mr. Ivan Ivanovic, president of the organization Nasi (Ours), who allegedly denied the allegations in a press interview.

2099. Once having knowledge of the case, police officers, in cooperation with the case Prosecutor, began undertaking measures and actions provided for by the law to look into it. Furthermore, the Republic's Prosecutor gathered evidence of the published newspaper articles and on official websites of the organizations concerned.

2100. At the same time, checks are currently underway to find out whether the allegations about death threats received, as contained in the Special Rapporteur's letter, is true as well as whether the website page of the organization Nasi is posted by a local or foreign provider and whether it is possible to obtain from the server in question daily listings of accessing by users for the purpose of identifying a person/persons making death threats. The Republic's Prosecutor is acting in this case under the authority to possibly substitute or devolve the lower-instance prosecution office.

Letter of allegations

2101. On 3 April 2009, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary killings, sent a letter of allegations to the Government concerning progress in the investigation of the killing of Mr. **Slavko Curuvija**, a very well-known journalist and newspaper editor, ten years ago. On 11 April 1999, two masked men approached Slavko Curuvija from behind on the street in front of his home in Belgrade and fired 17 bullets into his back and head. They noted that a communication of the then Special Rapporteur on extrajudicial, summary or arbitrary executions to the Government seeking information on this case (E/CN.4/2000/3/Add.1, para 95) had regrettably remained without response.

2102. According to the information received, the murder was preceded by significant public tension between Slavko Curuvija and the then President of the Federal Republic of Yugoslavia, Slobodan Milošević. At the time, the NATO bombing campaign against Serbia in connection with the Kosovo crisis was ongoing. Mr. Curuvija had criticized President Milošević's policies and called upon him to resign. He reportedly also was in open conflict with Mirjana Markovic, a senior politician and the wife of the President.

2103. Five weeks before his murder, on 8 March 1999, Mr. Curuvija was sentenced to five months' imprisonment for "disturbing the public" through a text published in his daily newspaper, in which he accused President Milošević of repressive policies. One week before the murder, Ms. Markovic reportedly accused Mr. Curuvija of being the "main state enemy who was responsible for NATO's bombing campaign," and concluded that he would be "tried by the people" for his betrayal of the national cause. Five days before the assassination, on 6 April 1999, a state-owned paper published an article calling Slavko Curuvija a traitor who called for, and supported, NATO's bombing of Serbia. The article announced that his treason would not be forgotten.

2104. Although the case has been under investigation for ten years, it was alleged that nobody has been brought to trial for the murder. Witnesses have reportedly identified L.P., a criminal gang member who was allegedly also working for State Security, as one of the two assassins. He was killed with a gun shot in the back of his head in 2000. Another element reportedly revealed in the course of criminal investigation into the case was that, in the months leading up to his murder, Slavko Curuvija and his spouse had been under round-the-clock surveillance conducted by a detachment of 27 members of the State Security service. A State Security document detailing his movements on the day of assassination reportedly shows that (for reasons that remain to be explained) the surveillance team was withdrawn 30 minutes before the assassination was carried out. Several State Security officials are suspected by journalists and civil society of involvement in the murder, but none of them was ever charged.

2105. The Special Rapporteurs highlighted the continuing importance, notwithstanding the ten years that have passed since April 1999, of fully investigating this murder and ending impunity for those responsible. Slavko Curuvija's killing was, according to many observers, the highest-profile attack on freedom of expression in Serbia's recent history.

2106. The Special Rapporteurs also stated that the tenth anniversary of the killing of Slavko Curuvija on 11 April 2009, offered an opportunity for the Government to reiterate its commitment to the right to life, to the fight against impunity, and to freedom of expression.

Urgent appeal

2107. On 6 May 2009, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the situation of human rights defenders, sent an urgent appeal to the Government regarding the threats against, and harassment of, Mr. **Marko Karadzic**, State Secretary of the Ministry for Human and Minority Rights of the Republic of Serbia.

2108. According to the information received, on 3 April 2009, a community of about 47 Roma families living in informal homes in Yuri Gagarin Street, New Belgrade and identified as "Roma settlement in block 67" were forcibly evicted, allegedly with the intention to transform the site

where they resided in view of the World University Games to take place in Belgrade in July 2009. Mr. Marko Karadzic tried to prevent the demolition and the eviction of Roma families.

2109. Mr. Karadzic was unable to stop the eviction and the affected families were sent by force to an alternative settlement in Boljevac, a suburb of Belgrade. However, residents of Boljevac prevented the evacuated Roma families from settling in their temporary shelters, and smashed and burned the containers allocated to them. On television, Mr. Karadzic labelled this attack as being racist, and called for the protection of the evicted families.

2110. In response to his stance and public statements regarding the eviction of the Roma families, Mr. Karadzic was attacked in public media and several residents of Boljevac announced their intention to sue him for defamation.

2111. Mr. Marko Karadzic received additional threats in connection with his support for the adoption of the comprehensive Anti-discrimination Law, which the Parliament adopted after several setbacks on 26 March 2009. The law contains sexual orientation as a ground for non-discrimination in Article 21. On 4 April 2009, posters appeared on the streets of several cities with photographs of explicit gay sexual acts and a photograph and quote from Mr. Marko Karadzic, implying that his advocacy for the Anti-discrimination Law will bring sexual orgies to the streets of Serbia. The posters had been prepared by an extreme right-wing group called “Crna ruka” (Black Hand, named after a terrorist organization formed in the early 1900s).

2112. On 14 April 2009, Mr. Karadzic received an anonymous letter containing serious death threats and threats of beatings, and warnings that he should not to take part in the Belgrade gay parade. Mr. Karadzic also received further death threats through the social networking website Facebook, suggesting that “if the posters would not stop him, there is something that will”. Mr. Marko Karadzic informed the State Security Service of the threats he had received, but reportedly received no meaningful advice or protection, which increases the possibility of further threats or attacks. He had further notified the Minister for Human and Minority Rights, Mr. Svetozar Ciplic about the threats.

2113. Concern was expressed that the threats against, and harassment of, Mr. Marko Karadzic may be related to his peaceful activities defending human rights, in particular his advocacy for the adoption of the Anti-discrimination Law; his public stance against the eviction of Roma families; and his call on the Government to ban extremist right wing organizations advocating violence against the Roma or Lesbian, Gays, Bisexuals and Transgender people. Further concern was expressed regarding the physical and psychological integrity of Mr. Karadzic, and the apparent lack of adequate response from the police and the State Security Service in responding to these threats and the failure to launch investigations into them.

Urgent appeal

2114. On 7 August 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding recent death threats received by Mr. **Milos Vasic**, journalist of the Belgrade weekly Vreme, and Mr. **Zarko Korac**, president of the Social Democratic Union.

2115. According to information received, on 28 July 2009, Mr. Vasic received a letter sent to the daily Glas Srpske. The letter was written on the letterhead of the “Serbian Chetnik Movement of Republika Srpska” and signed by self-proclaimed Chetnik movement leader Mr. Sinisa Vucinic, in his capacity as a “Serbian Chetnik Vojvoda”, and by Mr. Radovan Vijacic, “technical secretary” of the organisation. In the letter, Mr. Vucinic wrote that he “will try with all (his) capacities” so that Mr. Vasic and Mr. Korac end the same way as Mr. Zoran Djindjic, the former Serbian prime minister who was assassinated in Belgrade in 2003.

2116. On the same day, Mr. Vucinic had also allegedly sent a telegram to Glas Srpske, in which he asked the paper to “accept his sincere condolences upon the death of Milos Vasic, journalist for Vreme”.

2117. Concern was expressed that Mr. Vasic and Mr. Korac may be targeted as a result of exercising their right to freedom of opinion and expression and the associated right to freedom of association. Further concern was expressed regarding their physical and psychological well-being.

Urgent appeal

2118. On 11 December 2009, the Special Rapporteur sent an urgent appeal to the Government concerning threats against Ms. **Brankica Stankovic**, journalist and writer of the show “Insajder” (Insider) of B92 radio-television station, as well as ongoing **attacks and threats against the staff of B92**.

2119. The Special Rapporteur stated that concerns regarding threats against the staff of B92 and other journalists, including death threats against Mr. Vasic and Mr. Matic, assaults against Mr. Stojovic and Mr. Masan Lekic, and a bomb found under a vehicle of B92 in March 2004, have been expressed to the Government in five separate communications. While he noted with appreciation the response received from the Government on 30 January 2006, 3 August 2005 and 26 May 2005, he regretted that the responses indicated that the identity of the perpetrators could not be established and no prosecutions have taken place.

2120. According to new information received, on 3 December 2009, Ms. Stankovic and other staff of B92 were threatened with rape, throat-slitting and murder on online social network sites, and in the form of graffiti on buildings where journalists work and on walls in Belgrade following the airing of the first episode of a show entitled “(Ne)Moc Drzave” (“Power(lessness) of the State”). The programme presented the content of over a hundred criminal charges against the leaders of football fan clubs filed by the police in recent years, which have allegedly failed to result in effective convictions in a court of law.

2121. Concern was expressed that Ms. Brankica Stankovic and other staff of B92 have been threatened as a result of exercising their right to freedom of opinion and expression. While the Special Rapporteur welcomed the statements made by Government officials condemning such threats, he stated that he remains concerned about the physical and psychological integrity of the staff of B92 and the lack of prosecutions to bring perpetrators to account.

Response received from the Government

2122. In a letter dated 19 March 2010, the Government responded to the communication sent on 11 December 2009 as follows.

2123. On 4 December 2009, Brankica Stankovic reported to the police officers of the Belgrade Police Department that she had received several threatening messages on an Internet portal. The threats were in relation to the broadcasting of “the State (In)ability” series of “the Insider” television programme, which dealt with a topic on the activities of the Red Star, the Partizan and the Rad sport clubs supporter groups. Acting in response to Brankica Stankovic’s report, the police officers of Belgrade Police Department identified nine persons who had made several threats on the relevant Internet portal. Criminal charges on the account of commitment of the criminal offence of threat to personal safety and security, as defined in Article 138(3) of the Criminal Law, were filed against four people. Regarding the other five persons, after consultations were made with the prosecutor, interviews in the capacity of a citizen were ordered and notification was to be submitted with a report to the prosecutor in charge.

2124. The second incident occurred on 16 December 2009 during an international football match of the Euroleague between FC Partizan from Belgrade and FC Sahtior Donetsk (Ukraine) on the south stands of the FC Partizan stadium. During the match many persons were singing threatening songs to Brankica Stankovic, while the supporters were throwing around a rubber doll, which was meant to represent the journalist in question, then pierced it and hang it on the safety fence of the stadium.

2125. On 17 December 2009, after consulting the relevant prosecutor, 11 suspects were interrogated, kept in custody for 48 hours, then brought before the investigating judge on duty of the Municipal Court in Belgrade who placed them in custody for 30 days, effectively depriving them of liberty, on the grounds of reasonable doubt they had committed the criminal offence under Article 138(3).

2126. In reference to the case Kt No.2823/09, the Second Municipal Public Prosecutor’s Office in Belgrade (now the First Municipal Public Prosecutor’s Office in Belgrade) adopted the motion to execute the investigation in response to the Fourth Municipal Public Prosecutor’s Office’s request relating to Nemanja Odalovic, Bojan Glisovic and Nemaja Bogdanovic, as suspects, on the grounds of reasonable doubt that they each had committed a crime of threat to personal safety and security in accordance with Article 138(3) relating to the subsection 1 of the Criminal Law, threatening Brankica Stakovic, the journalist. In respect of Article 142(1)(2) and (3) of the Law on Criminal Procedure, the same suspects were placed in custody. The case had the Kt No.2855/09 proceedings added to it and the Second municipal Public Prosecutor’s Office in Belgrade requested for an investigation regarding Dragan Durdevic and Aleksandar Koprivica, as suspects, on suspicion that they each had committed a crime of threat to personal safety and security in accordance with Article 138(3) relating to the subsection 1 of the Criminal Law, threatening Brankica Stankovic, the journalist. The suspect Durdevic was placed in custody on the basis of Article 142(1)(2) and (3) of the Criminal Law, while the basis for the suspect Koprivica’s custody was in Article 142(1)(2).

2127. In relation to Kt. no.68/2010 (where the criminal report was received on 4 January 2010), the First Public Prosecutor’s Office in Belgrade submitted a request on 4 January 2010 for an

investigation to the investigation judge on duty of the First Court in Belgrade against Jovan Kraljevic, as suspect, on grounds of reasonable doubt that he had committed a crime of threat to personal safety and security in accordance with Article 138(3) relating to the subsection 1 of the Criminal Law, threatening Brankica Stankovic, the journalist.

2128. In relation to Kt. No.48/2010 (where the criminal report was received on 4 January 2010), the First Public Prosecutor's Office in Belgrade submitted a request on 4 January 2010 for an investigation to the investigation judge on duty of the First Court in Belgrade against Aleksandar Matejic, as suspect, on reasonable suspicion that he had committed a crime of threat to personal safety and security in accordance with Article 138(3) relating to the subsection 1 of the Criminal Law, threatening the B92 Radio and TV station through the telephone operator and the central office.

2129. Due to the constant threats being made, the Criminal Police Department assigned personal security to Brankica Stankovic, the B92 Radio and TV station journalist, through the process of threat to security deriving from several persons and threat to personal safety. Since 12 October 2009, the police officers of the Ministry of Interior have been providing direct security for Brankica Stankovic, as well as to other employed journalists of the B92 Radio and TV station.

Letter of allegations

2130. On 19 January 2010, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations concerning **Mr. Marko Karadzic**, State Secretary of the Ministry for Human and Minority Rights of the Republic of Serbia.

2131. According to the new information received, on 8 January 2010, Mr. Marko Karadzic's apartment was broken into by unknown individuals. Apart from some cash no other valuables have been reported missing.

2132. At the same time, a graffiti by the organization "Crna Ruka" (Black Hand) appeared near Mr. Karadzic's apartment in Belgrade. The same organization posted obscene posters of Mr. Karadzic in Pancevo at the beginning of 2009.

2133. Concern was expressed that the harassment of Mr. Marko Karadzic might be related to his peaceful activities defending human rights, in particular his advocacy for the adoption of the Anti-Discrimination Law; his public stance against the eviction of Roma families; his call on the Government to ban extremist right wing organizations advocating violence against the Roma and Lesbian, Gay, Bisexual and Transgender people and his comments rejecting political statements about the implied superiority of Serbs over other minorities living in Serbia.

Observations

2134. The Special Rapporteur thanks the Government for its detailed response of 19 March 2010, but regrets that at the time of the finalization of this report, the Government had not transmitted replies to communications dated 19 January 2010, 7 August 2009, 6 May 2009, 3 April 2009, 19 April 2007, 4 October 2006 and 1 September 2006.

2135. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

Sierra Leone

Urgent appeal

2136. On 25 August 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding the situation of Mr. **Abass Kamara**, human rights activist of the Amazonian Initiative Movement and Chair of the Bombali District Human Rights Committee, and the situation of two human rights organisations, **Timap for Justice** and **the Center for Democracy and Human Rights** operating in the Northern Province of Sierra Leone.

2137. According to the information received, on 23 June 2009, Mr. Abass Kamara was reportedly harassed and intimidated by local authorities for reporting a human rights abuse committed by a traditional leader in Foredugu, Buya Romende chiefdom, Port Loko District.

2138. On 15 August 2009, Timap for Justice and the Center for Democracy and Human Rights were summoned by the Provincial Secretary for the Northern Province. They were asked to retract their story aired out on the radio exposing a chiefdom police officer who was allegedly engaged in police brutality.

2139. Concern was expressed that the harassment and intimidation of Mr. Abass Kamara and the human rights groups Timap for Justice and the Center for Democracy and Human Rights might be directly related to their legitimate work in defense of human rights.

Letter of allegations

2140. On 14 October 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations regarding the situation of Mr. **Abass Kamara**. Mr. Kamara is the Chair of the Bombali District Human Rights Committee, a coalition of civil society organizations in the District.

2141. According to the new information received, on 29 September 2009, Mr. Kamara was arrested at his house by policemen. They did not allow him to read his warrant of arrest, but informed him that the warrant has been issued by Magistrate Emmanuella Harding for failure to produce a suspect in court. He was reportedly detained in the Makeni State Prison. Mr. Kamara contended that the suspect in question, a female student who was involved in a quarrel with her neighbour and for whom he has stood surety for, was not able to attend the last hearing since she had travelled to Freetown to settle the case out of court. Magistrate Harding was reportedly aware of this friendly settlement.

2142. On 30 September, the female student appeared before the court. The Magistrate allegedly refused to sit court as the matter had already been deferred to 5 October 2009. On 1 October, Mr. Kamara was released.

2143. It is alleged that Mr. Kamara's arrest was connected with the recent stance of the Bombali District Human Rights Committee in relation to Magistrate Harding's decision to discharge a sexual offence matter involving a journalist and a 12 year old girl from her court. The Bombali District Human Rights Committee had issued a press statement, wrote letters of protest to various stakeholders and organized radio discussions about this case.

2144. Concern was expressed that the arrest of Mr. Kamara might be directly related to his legitimate work in defense of human rights, in particular through the exercise of his right to freedom of opinion and expression.

Observations

2145. The Special Rapporteur regrets that at the time of finalizing the present report, the Government had not transmitted a reply to his communications of 14 October 2009, 25 August 2009, 10 August 2005, 4 August 2005, 27 May 2005, 20 May 2005 and 10 March 2005. He considers response to his communications an important part of the cooperation of Governments with his mandate. He considers response to his communications an important part of the cooperation of Governments with his mandate, and he urges the Government to respond to the concerns raised by him.

Somalia

Urgent appeal

2146. On 31 March 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, and the Independent Expert appointed by the Secretary-General on the situation of human rights in Somalia, sent an urgent appeal regarding the situation of Mr. **Mohamed Abdi Guled "Urad"**, member of the Somaliland Journalists Association (SOLJA), an organisation which advocates the rights of journalists in Somaliland. He is also the editor of the newspaper YOOL.

2147. According to the information received, on 26 February 2009, Mr. Mohamed Abdi Guled "Urad" was arrested by the police in Hargeisa, following the publication of an article on the alleged planned murder by some authorities of members of the Somaliland parliament and opposition leaders.

2148. On 17 March 2009, Mr. Mohamed Abdi Guled "Urad" was sentenced by the Hargeisa regional court to five months' imprisonment under allegations of "unlawfully printing a newspaper and spreading lies".

2149. Concern was expressed that the arrest, detention and sentencing of Mr. Mohamed Abdi Guled "Urad" might be linked to his non-violent activities in defence of human rights, in particular his work on advocating good governance and democracy.

Urgent appeal

2150. On 16 June 2009, the Special Rapporteur, together with the Independent Expert appointed by the Human Rights Council on the situation of human rights in Somalia, and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding the

situation of Mr. **Said Tahlil Ahmed**, Director of Horn Afrik, a major independent radio station, Mr **Mukhtar Mohamed Hirabe**, Director of Radio Shabelle, another leading independent radio station, and Mr **Ahmed Omar Hashi ‘Tajir’**, journalist at Radio Shabelle.

2151. According to the information received, on 4 February 2009, Mr. Said Tahlil Ahmed and Mr. Mukhtar Mohamed Hirabe were reportedly on their way to a press conference when they were attacked by unidentified assailants in Bakara market in Mogadishu. Mr. Said Tahlil Ahmed was shot dead, and Mr. Mukhtar Mohamed Hirabe was injured.

2152. On 7 June 2009, Mr. Mukhtar Mohamed Hirabe was once again attacked in Bakara market by two unidentified armed men who fired at him. He died instantly. Mr. Ahmed Omar Hashi ‘Tajir’ was critically wounded in the course of the attack, and is currently being treated in the capital. He has since received phone calls threatening him that next time he will not survive.

2153. Grave concern was expressed that the killings of Mr. Said Tahlil Ahmed and Mr. Mukhtar Mohamed Hirabe and the wounding of Mr. Ahmed Omar Hashi ‘Tajir’ might be linked to their peaceful activities in defence of human rights, in the exercise of their right to freedom of opinion and expression. Further concern was expressed for the physical and psychological integrity of human rights defenders in Somalia, particularly journalists.

Urgent appeal

2154. On 24 July 2009, the Special Rapporteur, together with the Independent Expert appointed by the Human Rights Council on the situation of human rights in Somalia sent an urgent appeal regarding the arrest and detention of two Somaliland journalists, Mr. **Mohamed Osman Mire** and Mr. **Ahmed Suleyman Dhuhul**, director and news editor of Radio Horyaal respectively, and the banning of an independent TV broadcaster Horn Cable TV (HCTV).

2155. According to information received, on 13 July 2009, Mr. Mohamed Osman Mire and Mr. Ahmed Suleyman Dhuhul were arrested at the radio station in Hargeisa, the capital of Somaliland, for allegedly inciting clan violence on the border between Gabiley and Awdal provinces in Somaliland. The journalists have been refused bail, are currently being held at the Criminal Investigations Department, and have not been charged with any crime. They are expected to appear in court on 21 July 2009. It has also been reported that the arresting officers did not have a warrant.

2156. On 14 July 2009, the police chief commander reportedly claimed that the two journalists had been arrested due to misrepresenting events and inciting violence. However, it has been alleged that Radio Horyaal merely stated that there “was no positive conclusion” to a meeting which was held on 10 July between elders of Gabiley and President Dahir Rayale Kahin to discuss inter-clan violence, which ended in dispute and led to an incident of inter-clan violence the next day.

2157. Reports also claim that the Attorney-General, in turn, accused local independent Horn Cable TV (HCTV) of having incited further bloodshed through its 11 July programming, which showed footage of that day’s violence between clan members. HCTV was banned on 15 July 2009, two days after the arrests of the two journalists.

2158. Concern was expressed that the arrest and detention of Mr. Mohamed Osman Mire and Mr. Ahmed Suleyman Dhuhul and the banning of HCTV might represent a direct attempt to stifle freedom of expression and to suppress independent media in Somaliland, particularly in light of elections to be held in September.

Observations

2159. The Special Rapporteur regrets that at the time of finalizing the present report, the Government had not transmitted a reply to the present communications as well as to those sent in 2008. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

Sri Lanka

Letter of allegations

2160. On 9 January 2009, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations to the Government concerning the killing of Mr. **Lasantha Wickrematunga**, chief editor of the English language weekly newspaper the Sunday Leader, an investigative newspaper which often reports on cases of alleged corruption and abuse of authority in Sri Lanka, and an attack on the premises of the independent television station, Sirasa TV (formerly known as Pannipitiya MTV/MBC) in Colombo.

2161. According to information received, on 8 January 2009, Mr. Wickrematunga was driving to work in Colombo. Two unidentified gunmen, who were travelling by motorcycle, smashed the window of Mr. Wickrematunga's car with a steel bar before shooting him at close range in the head, chest and stomach. The attack occurred in rush-hour traffic about 100 metres from an air force checkpoint. Mr. Wickrematunga was rushed to Colombo National Hospital where he died a few hours later from his injuries. A police investigation has been opened into the case.

2162. Prior to his death, Mr. Wickrematunga had been the target of numerous intimidation attempts and libel suits for his outspoken criticism of your Excellency's Government. The most recent libel case had been brought against him by the Defence Secretary, Mr. Gotabaya Rajapaksa, over stories published in the Sunday Leader alleging corruption in defence procurement. Following the Court proceedings a ban was placed on the newspaper mentioning the Defence Secretary for several weeks. Previously, in November 2007, the printing press of the Sunday Leader media group (Leader Publications), located in a high security area near Colombo, was destroyed in an arson attack by a group of unidentified gunmen. No arrests were made in relation to the attack and reports claim that a full investigation was not carried out. It is further reported that in October 2008 the President of Sri Lanka referred to Mr. Wickrematunga as a "terrorist journalist" during an interview with the non governmental organization Reporters Without Borders.

2163. Furthermore, in the early hours of the morning of 6 January 2009, approximately 20 unidentified individuals wielding assault rifles, pistols and armed bars raided the premises of

Sirasa TV in Pannipitiya, Colombo. The assailants, who reportedly arrived at the premises in a white unmarked van, overpowered security personnel at the entrance before entering the main studio complex where they proceeded to assault staff who were working at the time. A few staff members, who were held at gunpoint, were forced to guide their attackers to the main control room. The assailants then destroyed the room with explosives, causing considerable damage to broadcasting equipment. An unexploded grenade was later recovered from the premises.

Response from the Government

2164. In letters dated 11 February 2009 and 9 July 2009, the Government responded to the communication sent on 9 January 2009 as follows.

2165. On 8 January 2009, at about 10:05 hrs, Mr. Wickramatunga left in his car to go to his office in Attidiya in Templers Road, Mt. Lavinia. At 10:20 hrs. when he was passing Attidiya on his way to Templers Road opposite Attidiya Girls School, four motorcyclists who came after the car blocked the road and Mr. Wickramatunga's car came to a halt seeing the motorcyclists who were blocking the road. The four motorcyclists had been wearing helmets covering their faces, black jackets and all of them came on black coloured motorcycles. The cyclists surrounded the car and left on their bike after a few minutes.

2166. After the motorcycles had left, the onlookers had approached the car and found Mr. Wickramatunga lying on the seat with bleeding injuries on his head and the windscreen damaged. Both side-glasses of the car had also been damaged. One Dinesh Kumara, who was in the printing press opposite the place of the incident, rushed Mr. Wickramatunga to Kalubowila Hospital in a passing vehicle. The onlookers also informed the Police regarding the incident.

2167. Upon receipt of this information, Officer-in-Charge/Crimes, Mt. Lavinia, Inspector of Police (IP) Sugathapala, along with a team of officers visited the scene and conducted inquiries. Thereafter, on the instructions of the Inspector-General of the Police, Senior Superintendent of Police (SSP) for Mt. Lavinia directed inquiries along with the Assistant Superintendent of Police (ASP) for Mt. Lavinia, (I) Mr. C. Gunawardena in this connection.

2168. Mr. Wickramatunga succumbed to injuries in the hospital and a postmortem inquiry was conducted. The Judicial Medical Officer carrying out the inquiry reported that the death was due to shock and hemorrhage following gun shot injuries in the head.

2169. Mr. Harsha Sethunga, Magistrate for Mt. Lavinia, who held the inquest in connection with the death, returned a verdict of murder.

2170. The Government Analyst was summoned to examine the scene as well as the victim's car and his report is being awaited. No empty cartridges or used slugs have been traced from the scene or the dead body.

2171. Statements have been recorded from four eye-witnesses, but none of them are in a position to identify the suspects or to disclose the registration number of the motorcycles. One of them also had heard report of a gun from the scene of the incident.

2172. The deceased had died of gun shot injuries on his head. The assailants had committed this murder at a lonely stretch of Attidya Road when the victim was on his way to office. Further investigations continue.

2173. None of the four witnesses, who have come forward to make statements, have made references to any of the assailants wielding firearms. There is no specific mention of a steel bar. The witness speaks of Mr. Wickramatunga being attacked with an object covered with a newspaper which, in all probability, had been a hard object.

2174. The attack had taken place sometime after 10 am in the morning at a time the early morning vehicular traffic had eased. It is incorrect to state that there had been a check point manned by the air force personnel a hundred meters away from the place where Mr. Wickramatunga was attacked. The nearest check point had been no less than half a kilometer away. It must also be noted that the victim was rushed to the closest hospital that had all the facilities to attend to a victim who had suffered serious injuries of this nature, that is, the Colombo South Hospital. Every attempt had been made by a team of leading doctors that included two neurosurgeons, to save Mr. Wickramatunga's life. In the autopsy performed thereafter the Judicial Medical Officer had concluded that the cause of death was due to cranio cerebral injury due to the discharge of a firearm. It is incorrect to state that in addition to the gun shot injury on the head, the victim had been shot in the chest and stomach as his cadaver bore no such injuries. This is confirmed by the autopsy report.

2175. In addition, the assailants left neither the empty casing of the spent bullet nor the slug leaving very little evidence for the investigators to work with in relation to establishing the identity of the weapon used. The doctors who operated on Mr. Wickramatunga had cleaned the area and also removed certain parts of the skull bone around the entry wound. This has nevertheless caused some difficulty to the investigators in ascertaining the distance from which the purported shot was fired. No witness had heard a gunshot or shots being fired during the attack. The investigators had been further handicapped by the fact that no witness at the scene noted the registration plates of the motorcycles used by the assailants. The investigations are continuing with the singular aim of identifying the perpetrators, arresting and bringing them to justice without delay. The facts have been reported to Court and further investigations are being carried out under judicial supervision.

2176. Regarding the attack on the Sirasa TV station, the Government reported that the material facts contained in the communication were confirmed to a great extent by the police investigations. However, according to eye-witness account there is no mention of the use of pistols by the assailants. It is to be further noted that the number of assailants have been approximately 15 and not 20. Two of the employees who were working that night at the TV station complain of being assaulted whereas the others do not allege any assault. It is correct to state that an unexploded hand grenade was recovered from the premises.

2177. The investigators further report that 8 spent casings were found at the scene of the crime and in addition, police have also obtained the fingerprint of the employees of the TV station and are in the process of ascertaining the finger prints of the assailants, if any, by a process of elimination. A blood stain found on a floor tile had been retrieved by the investigators and sent for analysis with the aim of carrying out a DNA profiling in the course of further investigations.

The other items so recovered too have been forwarded to the Government Analyst Department for analysis.

2178. Statements have been recorded from all employees. However, none of the employees who were present during the night of the attack are in a position to identify or provide any useful description that would enable the investigators to establish the identity of the assailants. This is primarily due to the fact that all intruders had their faces covered to avoid identification and recognition.

2179. The police are also in the process of carrying out a mobile phone call analysis to ascertain whether any of the assailants used mobile phones from the location at the material time, which was well past midnight. Police have thus sought the assistance of the relevant mobile phone companies to ascertain whether any phone calls were transmitted via any of the telephone towers in the vicinity,

2180. The police had also in the course of their investigations followed a few leads provided by anonymous callers. These had not yielded any positive results. The police have reported the matter to the Magistrate Court. The investigations are continuing under judicial supervision with periodic progress reports being file in Court.

Urgent appeal

2181. On 27 January 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, have sent an urgent appeal to the Government regarding Mr. **Upali Tennakoon**, chief editor of the Rivira weekly newspaper, and the ongoing attacks on media professionals in Sri Lanka.

2182. On 9 January 2008, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders issued an urgent appeal letter in relation to the killing of Mr. Lasantha Wickrematunga, chief editor of the English language weekly newspaper the Sunday Leader, and an attack on the premises of the independent television station, Sirasa TV in Colombo. A reply was received from the Government on 12 January 2009.

2183. According to information received, on 23 January 2009, Mr. Upali Tennakoon was driving with his wife in Imbulgoda, on the outskirts of Colombo, when two unidentified individuals on a motorbike intercepted his car and ordered him to get out of the vehicle. When Mr. Tennakoon failed to comply with their demands the assailants then smashed the car window and began to attack him and his wife with wooden clubs and a knife. The attackers then immediately fled on their motorbikes and Mr. Tennakoon and his wife were taken to hospital, where they are in a stable condition. An investigation has reportedly been opened into the case.

2184. Concern was expressed that the aforementioned events may represent a direct attempt to prevent independent reporting in Sri Lanka, thus stifling freedom of expression in the country. Further concern was expressed for the physical and psychological integrity of Mr. Upali Tennakoon and his family, as well as media professionals in general in Sri Lanka, particularly in

light of reports that following recent events, including the killing of Mr. Wickrematunga and the attack on staff at Sirasa TV, at least five journalists have gone into hiding as they fear for their safety and the news website Lankadissent has reportedly ceased operations due to threats.

Response from the Government

2185. In a letter dated 14 May 2009, the Government responded to the communication sent on 27 January 2009 as follows. A complaint has been made by Kudugala Thennakoon Mudalige Upali Thennakoon, editor of Rivira Newspaper, at the Police Station Wellweriya regarding the above mentioned incident.

2186. On 23 January 2009, Upali Thennakoon and his wife left to go to the office and came to a narrow road and when entering into the main road an unknown four persons using clubs halted the vehicle and also Mr. Upali Tennakoon was assaulted. Vehicle had been damaged and Mr. Upali Tennakoon had suffered injuries. While trying to rescue Upali, his wife too has suffered injuries. Thereafter as the victims started to shout four unknown people had moved away in two motorbikes. Injured persons were sent to the National Hospital Colombo with the Police Security. The OIC of the police station of Wellweriya has started investigations. However, none of the suspects have been taken into custody up to date.

2187. Statements have been recorded after inquiring alleged victims and of another 50 people regarding the above incident. Upali Thennakoon and his wife have been directed to JMO. The car which was damaged and a club two and a half ft. long had been produced to the Government Analyst who had examined them. The car had been handed over to the owner by the order of the Magistrate. And finger marks had been taken at the place. Further investigation to the two motorbikes are being carried out and cases have been filed at the Magistrate's Court of Gampaha bearing No. B 294/09. Security and service of the officers of State Intelligence Services have been provided to the residence of Mr. Upali Thennakoon by the OIC of the Willweriya Police Station. The OIC of the Kadavath Police Station has been directed to provide for the security of Mr. Upali Thennakoon.

Urgent appeal

2188. On 26 May 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding Dr. **Thangamutha Sathiyamoorthy**, the regional director of health services in Kilinochchi, Dr. **Thurairaja Varatharajah**, the regional director of health services in Mullaitivu, and Dr. **V. Shanmugarajah**, medical superintendent at Mullivaaykkaal field hospital.

2189. According to the information received, Dr. Sathiyamoorthy, Dr. Varatharajah and Dr. Shanmugarajah are Government employed and had been treating the sick and wounded in the conflict zone in North-eastern Sri Lanka until they left the "No Fire Zone" with approximately 5,000 other civilians on 15 May 2009. The Sri Lankan Army (SLA) detained the

three doctors on 16 May 2009, under the broad arrest and detention powers of security forces pursuant to the Prevention of Terrorism Act. The physicians were last seen on the morning of 15 May 2009 at a holding area at Omanthai check point. An official of the Ministry of Health stated on 18 May Government forces handed over the physicians to the police.

2190. Dr. Shanmugarajah and Dr. Sathiyamoorthy are apparently currently held at a detention centre of the Terrorist Investigation Division (T.I.D) in Colombo. However, their relatives are not aware of their exact whereabouts and neither has had access to a lawyer. Dr. Varatharajah was seriously injured and is reported to have been airlifted by the Sri Lankan Air Forces (SLAF) from the Omanthai check point to an unknown destination.

2191. While working in the conflict zone, the doctors provided detailed eyewitness reports to the media and the international community from hospitals and makeshift medical centres. Their reports detailed the suffering of ordinary civilians, many of whom died from war-related injuries. Their reports also highlighted continuous shelling of areas with large concentrations of non-combatants.

2192. Concerns were expressed that the three doctors may be held in reprisal for providing information about the situation of civilians in the conflict zone. In view of their reported incommunicado detention at unknown places of detention, which could put them at risk of enforced disappearance, and in view of the reported serious injuries of Dr. Varatharajah, grave concerns were expressed as regards their physical and mental integrity.

Response from the Government

2193. In letters dated 28 May 2009, 15 July 2009 and 3 August 2009, the Government responded to the communication sent on 26 May 2009, which are summarized as follows. Dr. Thangamuththu Sathiyamoorthy, Dr. Veerakethipillai Shanmugarajah and Dr. Thurairajah Varatharajah surrendered to the Army when they have arrived at Omanthai check point on 15 May 2009. Dr. Thurairajah Varatharajah who was injured at the time of surrender was admitted to the General Hospital Colombo on the same day. Later he was discharged (6 June 2009).

2194. All the doctors were detained under section 19 (1) of the Emergency Regulation on charges of their alleged links with the proscribed LTTE organization, disseminating false information to the international media and supplying medicine including medical equipment to the LTTE from Government hospitals. All the doctors are presently in the protective custody of the Criminal Investigation Department (CID) headquarter Colombo, pending completion of investigation.

2195. Dr. Thurairajah Varatharajah had been visited by ICRC representatives on 28 May 2009 and on 6 June 2009. The spouse and sister of Dr. Thurairajah Varatharajah visited him on 30 May 2009, 13 June 2009, 20 June 2009, 27 June 2009 and 4 July 2009. Dr. Thurairajah Varatharajah was taken to ward No. 32 of the General Hospital Colombo on 24 June 2009 for a medical check-up and brought back to the CID on 26 June 2009.

2196. Dr. Thangamuththu Sathiyamoorthy had been visited by ICRC representatives on 21 May 2009 and on 6 June 2009. The father, mother and brother of Dr. Sathiyamoorthy visited him on 23 May 2009, 30 May 2009, 6 June 2009, 30 June 2009 and 4 July 2009. His spouse and children visited him on 20 June 2009.

2197. Dr. Veerakethipillai Shanmugarajah had been visited by ICRC representatives on 21 May 2009 and 6 June 2009. Family members visited him on 4 July 2009 at the CID.

2198. All three doctors were given healthcare facilities. At a media briefing held on 8 July 2009 at the Media Center for National Security all three doctors have stated that they were forced by the LTTE to speak to foreign media and provided exaggerated information on civilian casualties. They have also said that they were not under duress to attend the media briefing arranged by the MCNS.

Urgent appeal

2199. On 24 August 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding Dr. **Paikiasothy Saravanamuttu**. Dr. Saravanamuttu is the Executive Director of the Centre for Policy Alternatives (CPA) in Colombo.

2200. According to the information received, on the morning of 20 August 2009, Dr. Saravanamuttu received an anonymous death threat letter posted to his private address. The letter, written in English and posted on CPA's website, states that Dr. Saravanamuttu will be killed if Sri Lanka is denied the European Union GSP Plus (Generalised System of Preferences) in October 2009. The author of the letter alleges that Dr. Saravanamuttu had transmitted to Ms. Benita Ferrero-Waldner, the EU's Commissioner for External Relations, information which could affect the renewal of GPS Plus to Sri Lanka.

2201. The letter reads as follows: "this serves to warn you that come October and Sri Lanka is denied GSP plus you WILL be killed, we swear on all that we hold sacred you WILL be killed, for we now know that you have been the principal person who has been feeding the European woman Ferraro with information to deny this country of this and put us out of our livelihoods".

2202. Dr. Saravanamuttu and the CPA have reported they will be lodging complaints with the relevant authorities to investigate and take all necessary measures to remedy this matter.

2203. Concern was expressed that the death threat against Dr. Saravanamuttu may be linked to his legitimate work in defence of human rights. In view of the content of the letter, further concern was expressed for the physical and psychological integrity of Dr. Saravanamuttu and other members of CPA.

Response from the Government

2204. In a letter dated 25 August 2009, the Government responded to the communication sent on 24 August 2009 as follows. The Secretary of the Ministry of Disaster Management and Human Rights, Professor Rajiva Wijesinha, was personally informed of the death threats at a reception by the victim on 24 August 2009. The Ministry was contacted by the issue on 21 August 2009 by a junior member of the British High Commission, who was told that the

Ministry was awaiting a formal communication. Such a formal communication has not been received, but the Secretary instructed the DIG in charge to furnish a full report. The Ministry is not aware of the reasons for the delay in lodging a formal complaint by the alleged victim. The Secretary contended that due to the fact that the matter has been well publicized, an inquiry may be more difficult. The Secretary had nonetheless the DIG to treat this case as a matter of urgency.

Urgent appeal

2205. On 8 October 2009, the Special Rapporteur, together with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding Mr. **Mahanuwara Rajawasala Ratnayaka Mahanilamelage Isiwara Senaka Ekanayake**.

2206. According to the information received, Mr. Mahanuwara Rajawasala Ratnayaka Mahanilamelage Isiwara Senaka Ekanayake, a journalist, was arrested in 2008 while trying to investigate a case implicating a senior police officer. He was severely beaten, tortured and robbed by the Kalpitiya police. Since his release on bail, Mr. Senaka Ekanayake had been constantly harassed by the police. In late 2008, he was once again arrested on alleged false charges by the Galkiriyagama Police. He was kept in remand in Anurandhapura Prison and released in September 2009.

2207. As a result of his torture in custody, which left him with numerous injuries, Mr. Senaka Ekanayake had been seeking redress from the authorities. He submitted complaints to the National Human Rights Commission (complaint HRD341/08, and a second letter 18/09/09), the National Police Commission (24/01/08 and 29/05/09) and the President of Sri Lanka (29/04/09). Since lodging such complaints, he had been receiving death threats on the phone. Men in a white van have allegedly gone to his house a number of times, late at night, to ask for him. He had thus gone into hiding.

2208. Concern was expressed that the threats against Mr. Senaka Ekanayake are related to his work as a journalist and constitute a direct attempt to stifle his right to freedom of opinion and expression.

Letter of allegations

2209. On 9 October 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, sent a letter of allegations to the Government concerning **Mr. J.S. Tissainayagam**, editor in chief of the *North Eastern Monthly* magazine. Information regarding Mr. Tissainayagam was previously sent to your Excellency's Government on 14 March 2008 following his arrest and detention by the Terrorist Investigation Division (TID) along with five other journalists. The joint urgent appeal was sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the promotion and protection of human rights while countering terrorism. A response from your Excellency's

Government was received on 16 July 2009, indicating that the courts found Mr. Tissainayagam's confession to the police to be voluntary and that his detention at the TID was not illegal. The Working Group on Arbitrary Detention also adopted an opinion on the case of Mr. Tissainayagam on 12 September 2008, which declared his detention to be arbitrary (opinion no.30/2008).

2210. According to new information received, on 25 August 2009, Mr. Tissainayagam was charged with three counts under the Prevention and Terrorism Act (PTA) and the Emergency Regulations of 2006 in relation to his criticism of the Sri Lankan Army's treatment of civilians in two articles published in the North Eastern Monthly magazine in June 2006.

2211. On 31 August 2009, Mr. Tissainayagam was found guilty by Colombo High Court judge Ms. Deepali Wijesundera and sentenced to 20 years of "rigorous imprisonment" under the PTA. Mr. Tissainayagam was found guilty on two counts of intending to "cause communal disharmony" (PTA, section 2), with mandatory minimum sentence of five years each, and one count of receipt of monies "in the furtherance of any act of terrorism" (Emergency Regulations, regulation 6), with mandatory minimum sentence of 10 years.

2212. Judge Wijesundara is allegedly the sister of the officer who signed the indictment against Mr. Tissainayagam. One of the main pieces of evidence used against Mr. Tissainayagam was a handwritten confession, which had been submitted to court by the prosecution. The defence counsel challenged the veracity of Tissainayagam's confession on the basis of three accounts: first, Mr. Tissainayagam was threatened and mentally tortured for the police to obtain that statement; second, the confession was not given to an Assistant Superintendent of Police as required by law, and third, the statement reportedly mirrored word for word a statement written on 7 March 2009 by the officer who had been present at the time of Mr. Tissainayagam's detention and who has allegedly been involved in the torture of and threats against Mr. Tissainayagam. Judge Wijesundara denied Mr. Tissainayagam's right to appeal against the admissibility of this forced confession into evidence.

2213. Concern was expressed that the sentencing of Mr. Tissainayagam might be directly related to his work in defense of human rights and is an attempt to silence peaceful and legitimate criticisms of the government, thus stifling the right to freedom of opinion and expression in Sri Lanka. Concern was also expressed regarding the broad scope of the PTA and the Emergency Regulations, which do not appear to fall under the ambit of permissible restrictions to the right to freedom of opinion and expression under international human rights law. Further concern was expressed regarding fair trial standards in this case.

Urgent appeal

2214. On 15 October 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding threats against Ms. **Dilesha Abeysundera**, journalist for the Sinhalese-language weekly *Irudina*, Deputy Secretary of the Free Media Movement, and Secretary of the National Forum for Journalists in Sri Lanka.

2215. According to information received, on 28 September 2009, Ms. Abeysundera organised and attended a meeting calling for the abolition of what she has publicly stated as the "draconian provisions" in the Press Council Act of 1973. On the same day at around 11:45 p.m., several men

who were unidentified and were travelling in white vans attempted to forcibly enter Ms. Abeysundera's compound in the Borella district of Colombo. It has been reported that the men repeatedly called out her name while hitting her gate. After she informed them that they had the wrong house, they remained in the area and subsequently left due to poor weather.

2216. White vans have allegedly been used in many cases of abductions and enforced disappearances in Sri Lanka since 2006, when State agents and paramilitary groups that are allied to the Government allegedly increased attacks against those critical of the Government.

2217. Concern was expressed that Ms. Abeysundera has been threatened because of her work in support of a free media in Sri Lanka and her work as a journalist with Irudina, which is allegedly known for its critical coverage of the Government. Further concern was expressed regarding Ms. Abeysundera's physical and psychological integrity, particularly given the number of abductions, physical attacks, death threats, killings and acts of intimidation against journalists, and the ensuing lack of prosecutions of alleged perpetrators. Moreover, concern was expressed regarding restrictions on independent reporting in Sri Lanka, including the Press Council Act of 1973, which allows journalists to be prosecuted for contempt and sentenced to extended periods in prison, and prohibits the publication of materials related to Government documents, the armed services, national security and economic policy.

Urgent appeal

2218. On 6 November 2009, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding the situation of Ms. **Frederica Jansz**, and Ms. **Munza Mushataq** and **staff members of the *Sunday Leader* weekly newspaper**, an investigative newspaper which often reports on cases of alleged corruption and abuse of authority in Sri Lanka. Ms. Jansz and Ms. Mushataq are respectively Editor-in-chief and News Editor of the *Sunday Leader*.

2219. The Special Rapporteur on extrajudicial, summary or arbitrary executions, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders sent on 9 January 2009, a letter of allegation on the killing of Mr. Lasantha Wickrematunga, founder and former Editor-in-Chief of the *Sunday Leader*. We acknowledge receipt of the responses of your Excellency's Government dated 11 February 2009 and 9 July 2009.

2220. According to the information received, on 22 October 2009, Ms. Jansz and Ms. Mushataq reportedly received death threat letters. The letters, handwritten in red ink, stated the following: "if you write anymore, we will kill you, slice you into pieces". Mr. Lasantha Wickrematunga was killed in January 2009 after having received a similar red ink handwritten death threat letter.

2221. These new threats occurred following the publication on 18 October 2009, of an article by the *Sunday Leader* in relation to a video allegedly showing Sri Lankan soldiers executing Tamil prisoners and denounced as a fake by your Excellency's Government.

2222. Ms. Jansz and Ms. Mushataq reported the threats to the Inspector General of Police and to the police in Colombo.

2223. It is further reported that staff members of the *Sunday Leader* have been threatened on many occasions and the premises of the newspaper burnt down and bombed several times.

2224. Grave concern was expressed that these new threats may be directly related to the legitimate work of Ms. Jansz and Ms. Mushataq and the staff members of the *Sunday Leader* in defense of human rights. Given the content of the letters and the killing of Mr. Wickrematunga, further concern was expressed for the physical and psychological integrity of Ms. Jansz and Ms. Mushataq and all staff of the *Sunday Leader*.

Urgent appeal

2225. On 9 February 2010, the Special Rapporteur, together with the Chair-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding **acts of harassment and intimidation against journalists and media outlets prior to and following the Presidential election on 26 January 2010**.

2226. According to additional information received, on 25 January 2010, in addition to *LankaeNews* website (www.lankanewsweb.com), the following independent news websites were reportedly blocked by the main Internet Service Provider, Sri Lanka Telecom: *Sri Lanka Guardian* (www.srilankaguardian.org), *InfoLanka* (www.infolanka.com), and *Nidahasa* (www.nidahasa.com).

2227. On 28 January 2010, Mr. **Ravi Abeywickrama**, an employee at the Government-owned television broadcaster Sri Lanka Rupavahini Corporation, was allegedly attacked by one of the station's officials for signing a joint statement, along with 60 other State media employees, which condemned the misuse of State media to promote President Rajapaksa's election campaign. At least seven other employees who also signed the letter have allegedly been suspended or dismissed.

2228. On 29 January 2010, Mr. **Sandaruwan Senadeera**, editor of *LankaeNews*, a news website that supported the opposition candidate, allegedly received 40 threatening phone calls within a period of 45 minutes.

2229. On 29 January 2010, the office of *Irida Lanka* newspaper, which played a crucial role in supporting the opposition candidate in the run-up to the Presidential election, was allegedly sealed off by the Criminal Investigations Department (CID) of the Sri Lanka police. On the same day, the editor of *Irida Lanka*, Mr. **Chandana Sirimalwatha**, was allegedly arrested by the CID. No reason was given for his arrest and he remains in detention to date. He has reportedly been summoned to the CID at least three times during the past six months.

2230. Concern was expressed that the acts mentioned above might constitute an attempt to suppress critical and independent reporting in Sri Lanka. Further concern was expressed regarding the physical and psychological integrity of journalists and media personnel who supported the opposition candidate in the lead up to the Presidential elections.

Urgent appeal

2231. On 17 March 2010, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding information received that, when considered together, appears to suggest the existence of **a worrying and increasing trend aimed at delegitimizing the activities of human rights organizations, individual human rights defenders and journalists working in Sri Lanka**. Such information includes reports regarding physical attacks, threats, intimidation and public smear campaigns.

2232. Such attacks and threats, while experienced since 2006, have tangibly intensified following the Special Session of the Human Rights Council on Sri Lanka, which was held on 26-27 May 2009. It is reported that the Human Rights Minister, Mr. Mahinda Samarasinghe commented in *The Hindu* newspaper that “ The people who go and sit in the cafeterias in the UN and lobby people in a very subjective manner putting forward those kind of sentiments (against Sri Lanka) would be inviting a very stern response from the government of Sri Lanka”.

2233. In another article published in the online edition of the newspaper *Divayina* on 25 May 2009, it was alleged that “an NGO team goes to Geneva to defend the LTTE leadership. A team of people from NGOs in this country, including a representative of the Free Media Movement, has reached Geneva airport (...) with the aim of going before the Human Rights Council with inaccurate and false statements against the government of Sri Lanka and the security forces”. It is further reported that the Inspector General of the Police claimed in an interview on *ITN TV* station on 28 May 2009, that several journalists were on LTTE payroll. The Inspector General of the Police further alleged that these journalists have committed treason and distorted and misreported against Sri Lanka.

2234. On 3 March 2010, the Sri Lankan news website *Lanka News Web* published an article and a list containing the name of 31 human rights defenders and journalists allegedly compiled by the Sri Lankan State Intelligence Services. The list includes human rights defenders and journalists categorized according to their work, and a brief description of the activities of each individual. The list contains the names of individuals who have been engaged in “international outreach” on human rights related issues and grades them according to their perceived importance to the intelligence services. Several human rights defenders and journalists are referred to as “providing information on human rights issues and IDPs to several local and international outlets”, as “international platform speaker on media/human rights” and as a person who “speaks on human rights and media freedom and involved in advocacy overseas”. While the purpose of the list remains unclear, it gives rise to a serious concern about the physical and psychological integrity of the individuals contained therein.

2235. The head of Transparency International’s Sri Lanka office, Mr. **J. C. Weliamuna** is at the top of the list. It was reported on 8 March 2010 that the Government of Sri Lanka is planning to arrest Mr. Weliamuna in connection with the alleged misuse of funds. This information comes amidst a media campaign targeted against the Sri Lankan branch of Transparency International. It is feared that the allegations may be related to reports that Transparency International issued in December 2009 and January 2010, which included allegations about violation of election laws and misuse of public resources by the ruling party, and would be aimed at discrediting organizations engaged in monitoring elections. Mr. Weliamuna was the subject of a communication sent on 6 October 2008 by the Special Rapporteur on the independence of judges

and lawyers, the Special Rapporteur on the situation of human rights defenders and the Chairman of the Working Group on Enforced or Involuntary Disappearances. We have not yet received a response to this communication from your Excellency's Government. The communication related to a grenade attack on the house of Mr. Weliamuna, causing damages to his property. It is reported that no credible inquiry has been carried out into this attack.

2236. Mr. **Paikiasothy Saravanamuttu**, Executive Director of the Centre for Policy Alternatives, has been listed number three in the list. Mr. Saravanamuttu has been receiving death threats mainly in connection with the extension of GPS Plus (Generalized System of Preferences) status by the European Union to Sri Lanka in case it should have been rejected. Mr. Saravanamuttu was the subject of an urgent appeal sent on 24 August 2009 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders. A response from your Excellency's Government to this communication was received on 25 August 2009.

2237. Mr. **Sunanda Deshapriya**, a prominent journalist and human rights defender, who is number six on the list, has been living in exile in Switzerland since May 2009, due to the threats received and the ongoing denigration campaign in the media following his participation and intervention at the March 2009 session of the Human Rights Council and the 11th Special Session on Sri Lanka. He has been accused of being a "traitor" and a "liar" due to his participation at the Special Session. Videos containing death threats against him have been posted on the social networking site *Facebook*; he has received numerous threatening text messages and has been vilified in television and radio shows and a number of editorials. The Prime Minister of Sri Lanka, Mr. Mahinda Rajapaksa allegedly stated in an interview on 7 June 2009 in *The Nation* that it was a betrayal by Mr. Deshapriya to talk against his own country and to say that Sri Lanka violates human rights, while countries like India, China and Russia were firmly standing by the Government. In an interview with *ITN TV* on 4 June 2009, Mr. Mahinda Samarasinghe, the Minister of Disaster Management and Human Rights allegedly did not object to the talk show host's suggestion that Mr. Deshapriya should be expelled from the country for his intervention at the HRC Special Session. Mr. Deshapriya was the subject of urgent appeals sent on 7 June 2006 and 23 May 2005 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. A response from your Excellency's Government to this communication was received on 27 June 2006.

2238. Concern was expressed that threats and harassment of, and intimidation against human rights defenders and journalists, including media smear campaigns, might be related to their legitimate activities in defense of human rights, in particular to their international advocacy and outreach efforts. Further serious concern was expressed that some of the threats might be related to their having cooperated with the UN Human Rights Council and Special Procedure mandate holders. Given the extent of the allegations, there is an overarching concern that the threats, attacks and media smear campaigns may form part of a broader attempt to delegitimize the activities of human rights defenders who are critical of actions and policies of the Government.

Observations

2239. The Special Rapporteur thanks the Government of Sri Lanka for its replies, but regrets that at the time of the finalization of the report, the Government had not transmitted any replies to a number of communications sent in 2010, 2009, 2008, 2007, 2006, 2005, and 2004. He

considers response to his communications as an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

Sudan

Urgent appeal

2240. On 4 February 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government regarding the alleged arrest of Mr. **Ali Mahmoud Hassanein**, Mr. **Hassan Abdallah Al Turabi** and Mr. **Bashir Adam Rahama**.

2241. According to information received, on 29 December 2008, Ali Mahmoud Hassanein, Deputy Chairman of the Democratic Unionist Party, was detained by the National Intelligence and Security Service (NISS) in Khartoum and reportedly questioned at length about his views about the International Criminal Court (ICC). He was reportedly threatened by a senior NISS official that anyone publicly expressing views in support of cooperation by Sudan with the ICC would be killed. Subsequently, he was released.

2242. On 14 January 2009, two senior members of the Popular Congress Party (PCP), Chairman Mr. Hassan Abdallah Al Turabi and Foreign Relations Secretary Mr. Bashir Adam Rahama, were arrested by the NISS in Khartoum. The arrests came two days after news outlets carried a public statement by Mr. Al Turabi in which he expressed his view in relation to the current public debate about the ICC. Both men are currently held without charge under the National Security Forces Act at an NISS detention facility in Port Sudan. They have reportedly not been given access to legal counsel, not been informed of the reason for their detention, and not been able to challenge the legality of their detention.

2243. Concern was expressed that the arrests and detention of Mr. Hassan Abdallah Al Turabi and Mr. Bashir Adam Rahama were a direct result of the peaceful expression of opinion, in breach of constitutional guarantees for freedom of expression. This was of particular concern in light of other recent measures which appeared to have been taken in order to restrict public debate on questions related to the ICC. The mandate-holders stated that the peaceful expression of opinions about the relationship between Sudan and the ICC, which is a matter of extensive public interest in Sudan, should not give rise to imprisonment or threats.

Urgent appeal

2244. On 24 March 2009, the Special Rapporteur, together with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, 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, the Special Rapporteur on the right to food, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the Special Rapporteur on violence against women, its causes

and consequences, sent an urgent appeal regarding **the revocation of licenses of 16 non-governmental organisations working in the region of Darfur, in Northern Sudan and in the Transitional Areas**. Such a decision will have devastating consequences on the human rights of approximately 4.7 million people affected by the conflict, particularly in the sectors of food, health, water, sanitation, adequate housing and education. Of this population approximately 2.7 million are internally displaced persons living in camps across the country.

2245. According to the information received, on 5 March 2009, following the issuance of an arrest warrant against President Omar al-Bashir by the International Criminal Court, it was announced that the operations relating to humanitarian assistance and human rights work of these organisations were suspended. These organisations include 13 international non-governmental organisations, namely Action contre la Faim, Solidarités, Save the Children UK and Save the Children US, Médecins sans Frontières Holland and Médecins sans Frontières France, Care International, Oxfam GB, Mercy Corps, International Rescue Committee (IRC), Norwegian Refugee Council, Cooperative Housing Foundation and PADCO. In addition, the activities of three national organisations were also terminated, namely the Sudan Social Development Organization (SUDO), the Amel Centre for Treatment and Rehabilitation of Victims of Violence, and the Khartoum Centre for Human Rights. These 16 organisations employed nearly 6,500 national and international personnel, this constituting close to half of the workforce in Darfur. Eviction orders have reportedly been appealed (according to Sudanese law) by relief and humanitarian NGOs, while the closing down of local NGOs cannot be appealed according to the Humanitarian Act of 2006. Incidents of threats against NGO personnel were reported as well as systematic confiscation and seizure of property, including passports, computers, cars and confidential items, reportedly on the basis of an agreement signed by NGO personnel with the Humanitarian Aid Commission (HAC) stipulating that they have to hand their assets over to the State if they leave.

2246. The impact will not only be limited to Darfur, but also the Three Transitional Areas and Eastern Sudan. According to estimates, 1.5 million beneficiaries no longer have access to health and nutrition services. Host and IDP populations are particularly affected. Water supply, sanitation and hygiene services provided by these NGOs to 1.16 million people have been interrupted (Blue Nile – 102,000; Eastern States – 50,000; and Darfur – 1,007,000). Some 1.1 million people have stopped receiving general food distribution and the treatment of some 4,000 children for severe and moderate malnutrition over the next three months could be interrupted. In the Non-Food Item (NFI) and Emergency Shelter (ES) sector, 670,000 individuals are to be affected. Distributions of Non-Food Relief Items (which include cooking equipment and other basic household goods) and emergency shelter have ceased in 19 camps and locations in Darfur.

2247. The longer term humanitarian consequences, such as depletion and shortages of food stocks and other assets and the upcoming rainy season, will reportedly have a serious impact on the ability of the communities concerned to have access to sufficient and adequate food.

2248. On 8 March 2009, the decision to terminate the activities of the abovementioned organisations had started to show its effects. In some IDP camps in the Zalingei area, for example, the fuel for operation of the water pumps had begun to run low without an alternative option in place for its re-supply. Garbage had also started piling up inside these camps. Absence of water and a waste disposal system will have serious consequences on people's health and nutrition.

2249. Finally, disturbing reports of censorship, temporary newspaper suspensions, threats and arbitrary arrest and detention to prevent human rights defenders, journalists and members of opposition parties from freely expressing their opinions, were reported. Privately-owned print media reportedly continue to be subjected to daily censorship by officials of the National Intelligence and Security Service (NISS) who may order the removal of any article from the following day's paper. In response to the censorship there have been a number of protests by journalists.

Urgent appeal

2250. On 2 April 2009, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding the trial of **Mr. Ishag Al Sanosi Juma, Mr. Abdulhai Omer Mohamed Al Kalifa, Mr. Al Taieb Abdelaziz Ishag, Mr. Mustafa Adam Mohamed Suleiman, Mr. Mohamed Abdelnabi Adam, Mr. Saber Zakaria Hasan, Mr. Hasan Adam Fadel, Mr. Adam Ibrahim Al Haj, Mr. Jamal Al Deen Issa Al Haj, and Mr. Abdulmajeed Ali Abdulmajeed**, ten men from the Darfur region charged with the murder of Mr. Mohamed Taha, the founder and editor-in-chief of the daily *Al Wifaq*.

2251. The ten men were arrested in and around Khartoum between 9 September and December 2006 by National Intelligence and Security Services (NISS) and police forces. On 10 November 2007, a court in Khartoum found the ten defendants guilty and sentenced them to death. On 10 March 2008, the Court of Appeal upheld the verdict of the first instance court. On 26 August 2008, the Supreme Court upheld the death sentences for nine of the ten defendants and amended the charges against Mr. Al Taieb Abdelaziz Ishag, who was a minor at the time of the crime, from murder to harbouring offenders. His sentence was amended to a four-year prison term from the date of his arrest, 21 October 2006.

2252. The case was brought before the Working Group on Arbitrary Detention in August 2008. On 24 November 2008, the Working Group adopted Opinion No. 38/2008. It found (paras. 41-45 of Opinion No. 38/2008) that the defendants "[...] have not had a fair and public hearing as established in article 14 of the International Covenant on Civil and Political Rights.

2253. All ten defendants [...] accused of murdering Mr. Mohamed Taha, revoked their confessions in court, stating that they had been threatened, intimidated and subjected to torture and ill-treatment as a means to compel them to make the incriminating statements that the investigators instructed them to make. These statements were made during up to four months of incommunicado detention – without permission of access to defence counsel and family visits – in the police-run Forensic Evidence Department and Criminal Investigations Department, as well as in NISS [National Investigation and Security Service] detention facilities in Khartoum.

2254. A request was made to the prosecutor heading the investigation for the defendants to be medically examined on the grounds that they were feared to have been subjected to severe torture. However, the prosecutor and the judge turned down the request despite the fact that when the trial proceedings began, many of the defendants still bore clearly visible physical traces of injuries and scars on their arms, hands, thighs, and shoulders as a result of the alleged torture.

2255. The sentence that condemns the defendants to death is exclusively based on their confessions during their incommunicado detention as explained above. The court did not consider: i) that the defendants had revoked their confessions and ii) that the prosecutor and the judge turned down the request on the medical examination.”

2256. In light of these findings of the Working Group on Arbitrary Detention, the mandate-holders brought to the attention of the Government several principles applicable to this case under international law, including the necessity of stringent due process guarantees in cases concerning the death penalty. Considering the irreversible nature of the death penalty, the mandate-holders urged the Government not to execute the death penalty until all concerns raised are dispelled in their entirety, or the above named men are given a new trial or released.

Urgent appeal

2257. On 17 April 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights in the Sudan, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding the incommunicado detention of Mr. **Mohamed Al Mahgoub**, Director of the North Darfur branch of the Amel Centre for Medical Treatment and Rehabilitation of Victims of Torture.

2258. According to the information received, on 11 April 2009, officers of the National Intelligence and State Security Services (NISS) arrested Mr. Al Mahgoub at his house in Al Fashir. He has since been detained incommunicado in the NISS premises in Al Fashir. Mohamed Al Mahgoub has so far not been allowed any personal visits or been given access to a lawyer. Mr. Al Mahgoub has not been charged yet of any offence.

2259. Prior to his arrest, on 5 March 2009, Mr. Al Mahgoub had been ordered by the NISS not to leave Al Fashir, on the basis of the National Security Forces Act 1999.

2260. The Amal Centre's offices were closed down by the NISS in Nyala, South Darfur and in Al Fashir, North Darfur. The closure of Amal coincided with that of two other Sudanese non-governmental organisations, the Sudan Social Development Organisation (SUDO) and the Khartoum Centre for Human Rights and Environmental Development (KCHRED), and the expulsion of 13 international humanitarian organisations that were operating in Sudan.

2261. Concern was expressed that the incommunicado detention of Mr. Mohamed Al Mahgoub might be solely related to his legitimate activities in defence of human rights, particularly the rights of victims of torture. Further concern was expressed for his physical and mental integrity.

Letter of allegations

2262. On 14 August 2009, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegations

regarding the judicial prosecution of Ms. **Amal Habani**. Ms. Habani is a women's rights defender and journalist with the newspaper Ajrass Al Horreya (Freedom Bells).

2263. According to information received, Ms. Habani is facing judicial prosecution following the publication of an article on 12 July 2009 in Ajrass Al Horreya in which she criticized restrictions on women's rights in Sudan. In the article, Ms. Habani expressed her support for fellow journalist Ms. Lubna Ahmed al-Hussein who was recently arrested for wearing trousers in public and faces a possible sentence of 40 lashes. The Public Order Police subsequently filed a complaint against Ms. Habani for defamation, in accordance with Article 159 of the Sudanese Criminal Code. Ms. Habani could be fined ten million Sudanese pounds, if found guilty.

2264. Concern was expressed that the judicial prosecution of Ms. Habani may be related to her peaceful and legitimate activities in defense of women's rights.

Response from the Government

2265. In a letter dated 24 September 2009, the Government informed that the judicial proceedings instituted against the above-mentioned journalist are in no way related to the constitutional rights enjoyed by the journalist as a citizen or to the right of freedom of opinion and expression, inasmuch as the newspaper in question has been writing articles critical of the Government for many years without anyone interfering with its freedom to air its views.

2266. On 11 July 2009 the above-mentioned journalist published an article in the opposition newspaper Ajras al-Hurriya, in which she not only announced her solidarity with another journalist but also referred to the forces of law and order in offensive and unseemly terms, thereby degrading the reputation of the police in the minds of ordinary citizens. The forces of law and order instituted criminal proceedings against her through the Office of the Press and Publications Prosecutor, invoking article 159 (Defamation) of the 1991 Criminal Code and articles 27, 29 and 39 of the 2004 Press and Publications Act.

2267. According to the competent authorities in the Office of the Press and Publications Prosecutor, a complaint was filed against the newspaper Ajras al-Hurriya and the author of the article, Amal Habani, in July 2009 and the criminal case was registered as No. 7137-2009.

2268. Pursuant to article 28 of the Press and Publications Act, the Union of Journalists was informed of the charges filed against the author of the aforementioned article.

2269. The aforementioned journalist was not arrested but was summoned by telephone together with the editor of the newspaper, Mr. Murtada al-Ghali, so that their statements could be recorded, in accordance with the normal procedure of the Prosecutor's Office. They were released immediately after questioning on personal recognizance. In fact, the questioning lasted for only a few minutes.

2270. After assessing the case, the Prosecutor's Office issued a decision on 28 July 2009 to file charges under article 159 of the Criminal Code in conjunction with articles 27 and 29 of the 2004 Press and Publications Act.

2271. They were informed of the decision of the Prosecutor's Office to file charges and of their right to lodge an appeal against the decision with the representative of the Higher Public Prosecutor's Office by 2 August 2009.

2272. The defendants did not lodge an appeal within the legal time limit.

2273. The criminal case was referred to the competent court on 14 August 2009.

2274. The case is currently pending before the competent court.

Urgent appeal

2275. On 14 December 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding the situation of Ms. **Butheina Omar al Sadiq**, Ms. **Randa Yousif** and Ms. **Nafisa al-Nur Hajar**.

2276. According to the information received, on 8 December 2009, while posting flyers at the Al Kalakla Court complex in Khartoum, Ms. Omar Al Sadiq, Ms. Yousif and Ms. Al-Nur Hajar were arrested by the police following an order by Judge Bashir Rahama. The leaflets called on lawyers to renew their membership to the Bar Association to enable them to vote at the next Bar Association elections in January 2010. After having been interrogated by the police, the three lawyers were released. Later the same day, they were re-arrested by agents of the National Intelligence Security Service of Sudan (NISS), and since then have been held in incommunicado detention.

2277. Concern was expressed that the arrest and detention of Ms. Omar Al Sadiq, Ms. Yousif and Ms. Al-Nur Hajar might be directly related to their work in defense of human rights, and in particular for posting information regarding the upcoming Bar Association elections. In view of their incommunicado detention, further concern was expressed for their physical and psychological integrity.

Urgent appeal

2278. On 27 January 2010, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding Messrs. **Osman Abdu Ali**, **Ali Mahmood Ali Romay**, **Said Hamed Mohamed Kheir**, **Mohammed Osman Idris**, **Mohamed Mohamed Said**, **Idrees Mohamed Ali Idriss**, **Hamid Osman Adam**, **Saleh Mohamed Kheir**, **Mahmoud Mohamed Adam**, and **Sliem Edriss**.

2279. According to the information received, on 19 January 2010, supporters of Mr. Hamad Mohammad Ali from the Amrar ethnic group in the Red Sea State, Sudan, an independent

gubernatorial candidate for the April 2010 elections, organised a peaceful demonstration and rally in support of his candidacy. Mr. Hamad Mohammad Ali was a member of the National Congress Party (NCP), but started a campaign as an independent candidate when he was not nominated by his former party.

2280. The peaceful protests were soon curbed by police forces invoking the failure of the organisers to register a permit. Protestors were dispersed using tear gas, electrical batons, and water hoses. 27 people were arrested, and subsequently taken to Al-Awsat police station in Port Sudan. 12 of the protestors were released at 12:00 pm, among them two minors, Hassan Osman Ahmed, aged 14, and Mohammed Nour Mohammed Ali, aged 15. The remaining detainees, most of whom are members of the Bani Amir tribe including the 10 individuals mentioned above, face criminal charges under the 1991 Criminal Code. The case has been docketed as Case No. 311/2010.

2281. During the dispersion, a number of protestors, including Messrs. Hamed Mohamed Mahmoud Ahmad, Yacgoub Ibrahim Hamed, and Hussein Mahmoud Idriss, sustained serious injuries inflicted by police officers and security agents. Mr. Ali Mohamed Ibrahim Adam was wounded in the leg. The police also damaged a number of civilian vehicles belonging to protestors. The owners of the vehicles have attempted to press charges against the police for the damage, which have filed preliminary investigations.

2282. Fears have been expressed that the conduct of the police was discriminatory. Mr. Hamad Mohammad Ali asserts that the authorities in the Red Sea State denied his supporters a permit for the demonstration although supporters of the incumbent Governor of the National Congress Party (NCP), Mr. Mohamed Tahir Ella, were permitted to hold a rally. Further reports indicate that Governor Ella's campaign has made use of State resources, for example by using government vehicles for demonstrations in Port Sudan. The electoral laws of Sudan however require that campaigns are to be funded by the candidate's party, not by the State.

2283. Concerns were expressed that the arrest and detention of the abovementioned persons and the dispersion of the reportedly peaceful demonstration using disproportionate force, might form part of an attempt to stifle freedom of opinion, expression, peaceful assembly, and participation in the conduct of public affairs, directly or through freely chosen representatives, in the country.

Observations

2284. The Special Rapporteur thanks the Government for its response, but regrets that at the time of finalizing the present report, the Government had not transmitted a reply to several communications sent in 2010, 2009, 2008, 2007, 2006, 2005 and 2004. The Special Rapporteur considers response to his communications as an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

Swaziland

Urgent appeal

2285. On 12 June 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding Mr. **Thulani Maseko**, a lawyer for the detained President of the Peoples Democratic Movement (PUDEMO), Mario Masuku.

2286. According to the information received, Mr. Thulani Maseko was arrested on 2 June 2009, in Manzini, by members of the security forces and charged under the Sedition and Subversive Activities Act of 1938. Mr. Maseko was arrested for alleged utterances he made during a Workers' Day event held on 1 May 2009, at Manzini Salesian Sports Ground.

2287. Mr. Maseko was charged with contravening Sections 5 (1) and 5 (2) of the 1938 Sedition and Subversive Activities Act, as amended. He appeared for remand at Manzini Magistrate Court and conducted his own defence against the charges.

2288. According to the information received, Mr. Maseko was arrested and is being detained for having exercised his fundamental right to express himself. His detention would be contrary to the Constitution of Swaziland, which guarantees freedom of expression.

Observations

2289. The Special Rapporteur regrets that at the time of finalizing the present report, the Government had not transmitted a reply to his communication of 12 June 2009. He considers response to his communications an important part of the cooperation of Governments with his mandate, and urges the Government to respond to the concerns raised by him.

Syrian Arab Republic

Urgent appeal

2290. On 2 February 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Independent Expert on minority issues, and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, sent an urgent appeal regarding Mr. **Mustafa Jum'a**, Mr. **Darweesh Ghaleb**, Mr. **Mohammed Saed Hossein Al-Omar**, Mr. **Sadoon Mahmoud Shekho**, and Mr. **Salah Saed Unis**, Syrian nationals of Kurdish origin.

2291. According to information recently received, on 26 October 2008, Mr. Mohammed Saed Hossein Al-Omar and Mr. Sadoon Mahmoud Shekho, members of the leading committee of the Kurdish Azadi Party in Syria, were both arrested by military security services in Romelan and Raas al-Ein.

2292. On 31 October 2008, Mr. Salah Saed Unis, a Kurdish activist, was arrested by military security services in Amuda.

2293. On 6 January 2009, Mr. Mustafa Jum'a, deputy chairperson of the Syrian Kurdish Azadi Party in Syria, was arrested by Syrian security forces after a trial in Aleppo. He was summoned to appear before the military secret service. According to information received, he was transferred to Damascus on 10 January 2009, and was being held by the military secret service in the Fir'a Vilistin near Damascus.

2294. On 13 January 2009, Mr. Darweesh Ghaleb, who established the Committee for Learning the Kurdish language and has been a member of the Kurdish PEN Centre for many years, was taken from his home in Qamishli, by the Syrian security forces. The latter allegedly raided his home again on 15 January 2009 and confiscated books, writings and transcripts.

2295. Concerns were expressed that Mr. Mustafa Jum'a, Mr. Darweesh Ghaleb, Mr. Mohammed Saed Hossein Al-Omar, Mr. Sadoon Mahmoud Shekho, and Mr. Salah Saed Unis were arrested and detained solely because of their political and cultural activities in favour of Kurdish people.

Responses from the Government

2296. The Government responded to the communication in letters dated 17 March 2009 and 18 August 2009. However, at the time this report was finalized, the responses had not been translated.

Urgent appeal

2297. On 3 August 2009, the Special Rapporteur, together with the Vice-Chairperson Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding Mr. **Muhanad al-Hasani**, a human rights lawyer and the director of the Syrian Human Rights Organization (SHRO). Mr. Al-Hasani was the subject of a letter of allegation, sent by the then Special Representative on the situation of human rights defenders, on 9 November 2007. According to information received:

2298. On 28 July 2009, Mr. Al-Hasani was called in by the Public Intelligence Directorate (PID). When he went there, he was arrested at approximately 7 p.m. He continues to be detained incommunicado. Over the previous few days he had been repeatedly summoned to appear at the PID.

2299. It is believed that his arrest is related to his work in monitoring the hearing of cases related to the 2008 riot at Sidnaya prison, which recently commenced at the State Security Court (SSC). On 19 July 2009, following the end of one such hearing, Mr. Al-Hasani was stopped by a court clerk who proceeded to take his notebook and tear out any pages related to the proceedings. Mr. Al-Hasani reported the incident to the head of the SSC who subsequently reprimanded the court clerk. The court clerk stated that he was acting on orders from Habib Najma, the chief prosecutor of the court. Despite the intervention of the head judge of the SSC and a representative from the Ministry of Justice, the confiscated notes were not returned to Mr. Al-Hasani.

2300. Mr. Al-Hasani has also been the subject of a travel ban for the last five years and has been repeatedly threatened with judicial prosecution and imprisonment for running an unregistered organization. SHRO's application for official registration was denied.

2301. Concern was expressed that the arrest and detention of Mr. Al-Hasani might be related to his reportedly peaceful and legitimate activities in defense of human rights. With a view to his incommunicado detention, concern was further expressed for the physical and mental integrity of Mr. Al-Hasani.

Urgent appeal

2302. On 9 October 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Independent Expert on minority issues, sent an urgent appeal to the Government regarding Mr. **Khaled Kenjo**, 31 years of age.

2303. According to the information received, Mr. Khaled Kenjo, a member of the Kurdish minority in Syria, was expelled from Germany to the Syrian Arab Republic on 1 September 2009. He was returned after his application for asylum in Germany, which he had made in 2002, was refused. On 13 September, he was summoned and then arrested and detained by forces of the Syrian State Security Services in Qamishli, in north-eastern Syria.

2304. Initially, Syrian authorities did not confirm his whereabouts and Mr. Kenjo was not heard from. It was believed that he was transferred to the Damascus branch of the Syrian State Security Service around 25 September. Only on 6 October 2009 Mr. Kenjo was able to speak to a lawyer at a court session. He had been charged under Article 287 of the Syrian Penal Code with "spreading false news abroad that could harm the reputation of the State". Mr. Kenjo was known to be held in Qamishli prison.

2305. Mr. Kenjo's brother, Ahmad Mamu Kenjo, died of a brain haemorrhage in 2004, a few months after he had been beaten by members of Syrian security forces while being held in incommunicado detention. Another brother, Husayn Kenjo, was also detained in 2004 for around 16 months on charges connected with his alleged involvement in protests and riots relating to issues concerning the Kurdish minority in Syria.

Response from the Government

2306. In a letter dated 22 February 2010, the Government responded to the communication sent on 9 October 2009. At the time the present report was finalized, a translation of the response of the Government was not yet available.

Urgent appeal

2307. On 21 October 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding **Haytham al-Maleh**, aged 78, former head of the Human Rights Association in Syria (HRAS). Mr. al-Maleh was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and

protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders on 23 February 2004. According to the allegations received:

2308. On 13 October 2009, Haytham al-Maleh was asked by the Political Security Department to report to the Political Security's branch in Damascus, but he did not go. On 14 October 2009, he was arrested at his office. Since then he has been detained at an unknown location.

2309. It is assumed that Haytham al-Maleh's detention follows a phone interview about human rights and democracy in the Syrian Arab Republic that he gave to Baradda TV in September 2009. Furthermore, Haytham al-Maleh was defending Muhannad al-Hassani, a human rights lawyer who has allegedly been held in detention since 28 July 2009 (see the communication sent to your Excellency's Government on 3 August 2009 by the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment).

2310. Haytham al-Maleh suffers from diabetes and an overactive thyroid gland and is therefore in need of appropriate medical treatment, including medicine. Haytham al-Maleh was previously imprisoned from 1980 until 1986.

2311. With a view to Mr. Haytham al-Maleh's incommunicado detention, concern was expressed for his physical and mental integrity.

Response from the Government

2312. In a letter dated 1 April 2010, the Government responded to the communication sent on 21 October 2009. At the time the present report was finalized, a translation of the response of the Government was not yet available.

Urgent appeal

2313. On 10 December 2009, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government concerning Mr. **Muhannad Al-Hassani**, lawyer, President of the Syrian Human Rights Organization (SHRO) and Commissioner of the International Commission of Jurists. The situation of Mr. Al-Hassani has previously been addressed by an urgent appeal of 3 August 2009 by the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, to which no reply has been received so far from your Excellency's Government. According to the new information received:

2314. On 10 November 2009, the Disciplinary Committee of the Damascus Section of the Syrian Bar Association decided to permanently bar Mr. Al-Hassani from practicing law. Among the grounds upon which the disbarment was ordered was that Muhannad Al-Hassani is "the

President of an unauthorized organization (the Syrian Organization for Human Rights)”, the accusation of “publishing false and exaggerated information that weakens the state and its reputation abroad”, and of “attending and documenting the proceedings of the Supreme State Security Court without being the lawyer of those involved in these proceedings,” as well as “violating the law governing this profession as well as the [Bar Association’s] internal rules, and harming the dignity, honour and traditions of this profession”.

2315. Mr. Al-Hassani has been held in detention in Damascus since 28 July and faces criminal charges under Article 286 of the Syrian Penal Code. These charges arise allegedly from his observation and reporting of an open trial before the State Security Court held on 19 July 2009, and carry a prison sentence of up to 15 years. According to the information received, under the State Security Court Law proceedings of the Court are presumptively public.

2316. It is further reported that during the disciplinary proceedings, which took place on 20 October and 10 November 2009, the Disciplinary Committee gave no credible evidence that Al-Hassani had published any false or exaggerated information of any kind.

2317. Concern was expressed that the disbarment and criminal charges against Mr. Al-Hasani are related to his reportedly peaceful and legitimate activities in defense of human rights, including as a lawyer.

Response from the Government

2318. In a letter dated 23 February 2010, the Government responded to the communication sent on 10 December 2009. At the time the present report was finalized, a translation of the response of the Government was not yet available.

Urgent appeal

2319. On 23 December 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding Mr. **Mustafa Ismail**, lawyer, of Kurdish origin. Mr. Ismail writes frequently about the treatment of Kurds in the Syrian Arab Republic and Turkey for a number of foreign-based websites.

2320. According to the information received, on 12 December 2009, Mr. Mustafa Ismail was arrested at the Air Force Security Branch in Aleppo, where he went following an order from the local security office in Ain Arab.

2321. On 17 December 2009, members of his family went to the same Air Force Security Branch in Aleppo to look for him. However, they were told that Mr. Ismail was not there and were instead ordered to leave.

2322. During the past few months, Mr. Ismail has been questioned several times by members of different security services such as by the Political Security Branch on 3 October, the Military Security Branch on 5 October and the State Security Branch on 7 and 8 November. During those sessions, questions had reportedly surrounded his work for the media, particularly phone interviews he had given to a European-based Kurdish satellite TV station, Roj TV.

2323. On 11 December 2009, Mr. Ismail had posted an article on the website of Levant News citing the order to report to the Air Force Security Branch in Aleppo and pointing to the numerous times that he has been summoned for questioning to security offices since 2000.

2324. So far, the authorities have not acknowledged that Mr. Ismail is in detention or provided any other explanation.

2325. In light of Mr. Ismail's prolonged incommunicado detention, concern was expressed for his physical and psychological integrity.

Urgent appeal

2326. On 18 March 2010, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding Mr. **Haithem al Maleh**, 78 years old. Mr. al Maleh has been a lawyer since the 1950s and in 2001 established the Human Rights Association in Syria (HRAS). Mr. al Maleh was the subject of two urgent appeals by several special procedures on 21 October 2009 and 23 February 2004.

2327. According to the new information received, during Mr. al Maleh's incommunicado detention at the General Security building (see previous communication of 21 October 2009), he was detained in a room without food or drink and in which a number of torture tools were displayed. There, he was reportedly subject to an inquiry by high ranking officers of the General Intelligence, who questioned him extensively on an interview he gave to Barada TV on 12 October 2009 and articles he had written regarding his client Mr. Muhannad Al-Hassani, as well as other human rights work he had undertaken.

2328. On 19 October 2009, Mr. Haithem al Maleh was transferred to a branch of the Military Police in Qaboun, Damascus. On 3 November 2009, the Military General Prosecutor charged him with Articles 374 and 377 of the Criminal Law (Contempt of the Head of State"), Article 285 of the Criminal Law (Contempt of Public Administration), and Article 286 of the Criminal Law (Crime of disseminating false information affecting the morale of the nation). The military prosecution subsequently retained the charge under Article 286 of the Criminal Law, for which Mr. al Maleh remains in detention. According to the information received, his trial before the Military Court of Damascus is ongoing.

2329. Since 21 October 2009, Mr. al Maleh has been detained in Adra prison, Damascus. Information received suggests that in the first few weeks of his detention and again since 11 February 2010, Mr. al Maleh, who suffers from diabetes and an overactive thyroid gland, has been refused his medication as prescribed by his doctors, causing a serious deterioration of his

state of health. Reports received suggest that during his hearing before the military judge on 22 February 2010, Mr. al Maleh was so weak that he could hardly speak. In addition, he had fainted during hearings earlier in February.

2330. Mr. al Maleh is detained in a cell with approximately 60 people. The cell does not contain any beds, simply mattresses on the floor, which are shared by several detainees. Water in the prison is often cut off, meaning the detainees cannot wash for long periods and have to use the toilet without any water – leading to serious health risks.

Response from the Government

2331. In a letter dated 1 April 2010, the Government responded to the communication sent on 18 March 2010. At the time the present report was finalized, a translation of the response of the Government was not yet available.

Observations

2332. The Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted any replies to several communications sent in 2009, 2008, 2007, 2006, 2005, and 2004. He considers response to his communications as an important part of the cooperation of Governments with his mandate, and urges the Government to respond to the concerns raised by him.

Tajikistan

Urgent appeal

2333. On 18 March 2010, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on the Independence of Judges and Lawyers, sent an urgent appeal to the Government regarding **Mr. Nematillo Botakuziev**, a human rights defender and representative of the of the Nookat branch of the Kyrgyz NGO “Justice-Truth” since 2004. “Justice-Truth” provides legal assistance and representation in criminal trials that have human rights concerns.

2334. According to the information received, on 26 February 2010, Mr. Nematillo Botakuziev, a Kyrgyz citizen, reportedly disappeared in Dushanbe, Tajikistan, following a meeting with the local office of UNHCR the same day. Mr. Botakuziev had been hiding in Kyrgyzstan since October 2008, after he had been accused by the authorities of organizing the protest in Nookat, Kyrgyzstan, on 1 October 2008, and wanted him on criminal charges. Mr. Botakuziev arrived in Tajikistan in mid-February 2010 and sought asylum. He was registered with the local office of the UNHCR as an asylum seeker and was last seen in the UNHCR offices in the afternoon of 26 February 2010.

2335. On 4 March 2010, the Regional Office of OHCHR for Central Asia in Bishkek, Kyrgyzstan was informed by several sources that Mr. Bokatziev is allegedly detained by the State Committee on National Security of the Republic of Tajikistan and is under threat of being

extradited to the Kyrgyz Republic. On 13 March 2010, Mr. Rashan Gapirov, the Director of the NGO "Justice-Truth" was informed that Mr. Bokatzuziev was being held in a detention facility on Molodaya Gvardia street in Dushanbe, Tajikistan.

2336. Mr. Botakuziev has allegedly suffered repeated beatings while in detention and his state of health is further weakened due to a recent heart attack.

2337. On 17 March, Mr. Bukatzuziev's lawyer attempted to get access to him but was refused to see his client.

2338. Concern was expressed that the arrest and detention of Mr. Nematillo Botakuziev may be related to his legitimate activities in defence of human rights, in particular his denunciation of the repression of the Nookat demonstration by Kyrgyz security forces. Further serious concern was expressed regarding the physical and psychological integrity of Mr. Botakuziev in light of his fragile state of health and allegations of torture and ill-treatment while in detention.

Observations

2339. The Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted any reply to the communication above.

Thailand

Urgent appeal

2340. On 19 February 2009, the Special Rapporteur, together with the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding the searches conducted to the office of the **Working Group on Justice for Peace**, a NGO dealing with cases of enforced disappearances.

2341. According to the information received, on 8 February 2009, the office of the Working Group on Justice for Peace (WGJP) in Pattani was searched by a group of twenty police and army officers who inspected computer data and took photographs of various materials. Allegedly, the search was conducted under Martial Law legislation upon information that southern militants were seen in the area. At the time of the search, two volunteers at WGJP were asked to show their identity cards and were interrogated about the activities of the NGO. It is alleged that the search was provoked by the fact that many human rights activists went to the south of the country to meet local residents and gain first-hand information about the operations of security officers. This incident constitutes a threat to human rights defenders working in the southern provinces, in particular on the issue of enforced disappearances.

Response from the Government

2342. In a letter dated 9 March 2009, the Government informed that the searches of the offices of the WGJP were conducted during the Lim Kor Niew Festival on 6-10 February 2009, an important annual event in Pattani Province. In order to maintain security and safety during such period, the Internal Security Operations Command (ISOC – Fourth Army Region), instructed the Pattani Special Unit to increase vigilance and intelligence in the province.

2343. Prior to the searches, the authorities concerned had received information from a reliable source that a suspect in connection with the 2007 bombing attacks in Pattani Province was preparing to perpetrate violence during this period. Arrest warrants had been issued for this suspect under the Emergency Decree B.E. 2548 (2005) and the Criminal Procedure Code. Information was also received that the suspect was hiding in a row of six rental accommodation in Muang District, Pattani Province, where local people reside and the office of the WGJP also happens to be situated.

2344. Acting upon this information, on 8 February 2009, the police and military officers from Pattani Special Unit were deployed in accordance with the Martial Law Act B.E. 2457 (1914) to conduct searches of the said compound, including the office of the WGJP. The suspect was not found during these searches.

2345. In this connection, the Royal Thai Government wishes to point out that the searches were fully conducted in accordance with the law, and in good faith, to prevent any possible acts of violence, which may lead to loss of lives or damage to properties. The searches were conducted on all six adjoining rental units, and should not, in any way, be seen as singling out or being aimed at intimidating the office of the WGJP because of its human rights-related activities.

2346. The Royal Thai Government supports and encourages the work of individuals and groups within the society to promote and protect human rights and fundamental freedoms, with due respect for the rights and freedoms of others, morality, public order and the general welfare of the society. Allegations concerning misconduct by the Thai authorities towards such individuals and groups will be fully investigated.

2347. With regard to the situation in the Southern Border Provinces of Thailand, the Royal Thai Government places great importance on building understanding and good relations between the authorities and the local population, including local leaders and human rights and peace workers. In February 2009, ISOC participated in a seminar on the situation in the South of Thailand, in which several prominent academics and human rights defenders also attended. During this seminar, it was agreed by all sides that all stakeholders should cooperate and work closely together to address the situation in the Southern part of Thailand.

Urgent appeal

2348. On 31 March 2009, the Special Rapporteur, together with the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding the situation of the **staff members of the Pattani office of the Working Group on Justice for Peace (WGJP)**, a non-governmental organization (NGO) dealing with cases of enforced disappearances.

2349. According to the new information received, on 29 March 2009, a group of four armed soldiers, reportedly under the command of First Lt Benja Manochai, deputy chief of Special Taskforce 23, visited the Pattani office of WGJP for two hours and asked the following questions to the staff members:

1. When was the office opened?
2. Who is working in this office, including high and low level staff?
3. What kind of activities and programs does this office do?
4. What data do you have that is useful for us?
5. What information does the office gather in the field?

The soldiers reportedly stated that they were tasked by the head of Special Taskforce 23, Lt Col Praweet Suthi-prapha, to gather information about the activities of NGOs in Pattani. In particular, the soldiers wanted to know with which organizations WGJP works at the national and international levels. Staff members responded by requesting the soldiers to send their questions in writing, and handed the organization's brochure.

2350. On 30 March, the same group of soldiers reportedly returned to the office and allegedly stated that they had forgotten to take down the names of staff members the day before. The coordinator of the office, Mr. Adenan Sulaelo, gave his name to the soldiers. The soldiers also reportedly brought a box of medicine, including pain killers, Ethyl Alcohol, anti-bacterial solution, and gauze, which can be interpreted as a death threat.

2351. It is further reported that WGJP intends to hold an open meeting on 7 April 2009 in Pattani to provide information on the work and roles of human rights organizations working in the three-southern provinces in Thailand. Invitations to attend this meeting have reportedly been also addressed to security personnel in the provinces.

2352. Concern was expressed that the reported new visit of soldiers to the premises of WGJP and the interrogation of its staff members may be linked to the peaceful activities of WGJP for the promotion and protection of human rights, in particular its work on enforced disappearances. Further concern was expressed for the physical and psychological integrity of WGJP's staff members, and more generally, for human rights defenders operating in the Pattani, Narathiwat and Yala provinces.

Response from the Government

2353. In a letter dated 16 February 2010, the Government informed that prior to the search of the office of the Working Group on Justice for Peace (WGJP) in February 2009, the Pattani Special Taskforce received information about planned attacks in Pattani Municipality during the Chao Mae Lim Ko Niao Festival between 6 and 10 February 2009.

2354. On 7 February 2009, a leading perpetrator of violence under arrest warrant, and also an expert in assembling explosive devices, was believed to be in hiding in the vicinity of six contiguous commercial buildings in Pattani. As a result, in order to prevent any possible attack in the area during the festival, on 8 February 2009 at 06:00, the Special Taskforce conducted a search of all six buildings. However, the suspect was not found during the search.

2355. Upon learning after the search that one of the buildings was the office of the WGJP, the Chief of the Pattani Special Taskforce contacted Ms. Angkana Neelapajit and explained to her

that the search was carried out as a preventive measure to ensure peace and security of life and property of the local population in the area. It was also conducted in accordance with the law and respect for human rights in a non-discriminatory manner. There was no intention of intimidating any person or group. The Special Taskforce also expressed its appreciation to the staff of the WGJP for their cooperation during the search.

2356. It is clear that the search was, therefore, not provoked by the activities of human rights activists in the South as stated in the allegation, but by the possible bombing attacks in Pattani Province.

2357. With regard to the visit of military officers to the WGJP office, on 29 March 2009, the Deputy Chief of the Special Taskforce 23, together with four soldiers under his command, visited the office of the WGJP. The purpose of the visit was to introduce himself and his team with a view to enhancing the relationship with the staff members of the WGJP. The dialogue was conducted in a good atmosphere with the aim of finding out more information about the organization and its activities so that both sides can gain a mutual understanding of their works and promote good cooperation in the future.

2358. On 30 March 2009, the officials from the Special Taskforce 23 revisited the offices of the WGJP to hand over a box of medicine including painkillers, antihistamine, cotton sheets and bandage to the WGJP staff. Such an action was conducted as a friendly gesture, without any hidden motives, with the intention that such medicine and medical equipment could be used by the WGJP to help people in need. Indeed, it is a regular activity of military officials to provide boxes of medicine to people when visiting them on the ground. It is an expression of sincere concern for the well-being of people.

2359. On 7 April 2009, the WGJP organized a meeting to provide information about the role of human rights organizations working in the Southern Border Provinces, particularly the work of WGJP. The meeting was well-attended by Government officials including military and police officers. The Chief of the Special Taskforce 23 took the opportunity to clear up any misunderstanding that the search and visit may have caused.

2360. On 8 April 2009, the WGJP issued a briefing note to the Special Taskforce 23, non-governmental organizations both in Thailand and abroad, embassies, and relevant UN agencies, stating that it was particularly pleased with the turnout at the event and perceived this event as an important step of trust-building with the military.

Urgent appeal

2361. On 6 April 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding Mr. **Suwicha Takor**, 34 years old.

2362. According to the information received, on 3 April 2009, the Criminal Court in Bangkok sentenced Mr. Takor to 10 years of imprisonment for posting images on the Internet in 2008 that were allegedly offensive to members of the royal family, including His Majesty, King Rama IX, and the Crown Prince, Maha Vajiralongkorn. Mr. Takor was convicted of lèse-majesté pursuant to articles 8 and 9 of the 2007 Constitution, articles 33, 83, 91 and 112 of the Criminal Code, and

also pursuant to articles 14 (2) and 16 (1) of 2007 Computer Related Crime Act for having illegally used a computer. The 2007 Computer Related Crime Act was introduced under the military rule of the country. Mr. Takor was convicted on two accounts carrying 10 years of imprisonment each. His sentence was reduced because he had pleaded guilty.

2363. The police arrested Mr. Takor on 14 January 2009 in his hometown Nakhon Phanom and he was transferred to Bangkok. He had been kept in prison since then, as the court twice refused his lawyer's submissions for bail.

2364. The Minister of Justice had called for a blanket ban on reporting on cases of *lèse-majesté* in the Thai media and was also refusing to publish related statistics.

2365. Concern was expressed that the arrest, detention and imprisonment of Mr. Suwicha Takor might represent a direct attempt to stifle freedom of expression in Thailand.

Responses from the Government

2366. In a letter dated 30 April 2009, the Government responded to the communication and provided preliminary information on the *lèse-majesté* law, explaining that the *lèse-majesté* law is part of Thailand's criminal code, which also contains general provisions on defamation and libel of private individuals.

2367. Under the Thai Criminal Procedure Code, a person who comes across a suspected *lèse-majesté* act may set in motion legal prosecution by lodging a formal complaint with the relevant authorities. Facts and evidence are gathered and investigated first by the police in order to establish the case, before it can be submitted and examined by the public prosecutor in accordance with due process of law. Only thereafter may the public prosecutor bring the case before the court. In the past, a large number of *lèse-majesté* charges have been dropped. For those found guilty, they have the right to appeal to higher courts. It is also common for those convicted to be subsequently granted royal pardons.

2368. Similar *lèse-majesté* laws exist in many countries with constitutional monarchies, including countries in Western Europe. Like such countries, Thai law provides that the King shall be held in a non-violable position and that the King shall be respected and no one shall accuse or file charges of any sort against him. This is in accordance with article 8 of the 2007 Thai Constitution.

2369. The rationale behind the law is to protect Thailand's national security because under the Thai Constitution, the monarchy is one of Thailand's principal institutions. The King and other members of the Royal Family are above politics. The Constitution does not allow them to comment or act in their own defence. This is the same rationale as the law on contempt of court.

2370. The King himself is not adverse to criticisms, having publicly expressed, in a nationwide address, his discomfort with the *lèse-majesté* law and his disagreement with the notion that "the King can do no wrong". However, the King is not in a position to amend the law, which has the support of the general public.

2371. Thailand is committed to upholding the rights of all persons to freedom of opinion and expression as stipulated in the ICCPR and the 2007 Thai Constitution. The lèse-majesté law is not aimed at curbing these rights nor the legitimate exercise of academic freedom, including the debates concerning the monarchy as an institution, which have taken place in the past.

2372. In a letter dated 7 July 2009, the Government provided additional information regarding the case of **Mr. Suwisha Thakor**.

2373. Mr. Suwisha Thakor was arrested on 14 January 2009 under a warrant issued by the Criminal Court stating that, from 27 April to 26 December 2008, Mr. Suwisha Thakor had disseminated information and pictures allegedly offensive to His Majesty the King via the Internet. Mr. Takor denied all charges while the police filed the application to the court, requesting to detain Mr. Takor during investigation.

2374. On 26 March 2009, after having received the investigation file from the police, the Attorney-General issued an opinion to institute prosecutions against Mr. Takor on two counts: (1) defaming, insulting or threatening the King, the Queen, her Heir-apparent or the Regent by importing to a computer system of false computer data in a manner that is likely to damage the country's security and of computer data related to an offence against the Kingdom's security; and (2) importing to a computer system that is publicly accessible of computer data where a third party's picture appears either created, edited, added or adapted by electronic means or otherwise in a manner that is likely to impair the third party's reputation or cause that third party to be ostracized, abominated or embarrassed which are the offences pursuant to Articles 8 and 9 of the Constitution, Articles 33, 83, 91 and 112 of the Criminal Code and Articles 14(2) and 16(1) of the Computer-Related Crime Act.

2375. During the detention, Mr. Takor's wife filed an application with the Court requesting bail for Mr. Takor. The Court dismissed the application on the ground that the King is a highly respected institution in Thailand and is inviolable by law. This case involved a serious threat to national security which constitutes grave offence. There was also the possibility of absconding since Mr. Takor was employed by a foreign company which entailed regular travel. The Court, therefore, ruled that there was no reasonable ground to grant his temporary release.

2376. On 30 March 2009, Mr. Suwisha Thakor pleaded guilty to all charges and on 3 April 2009 he was sentenced to 20 years in prison on two counts of ten years each. Since he pleaded guilty, his sentence was reduced to 10 years.

2377. The arrest, prosecution and adjudication in the case of Mr. Suwisha Thakor were conducted in an independent, transparent and impartial manner in compliance with Thai laws and international human rights standards. The above information explicitly indicates that the arrest and detention of Mr. Takor was not arbitrary but was done under the rule of law. Of this there should be no doubt. Mr. Takor still has the right to appeal his sentence to higher court or request for a royal pardon which can be done under the Criminal Procedure Code and the Thai Constitution. It should be added that it is not uncommon for royal pardons to be granted in lèse-majesté cases in Thailand.

2378. With respect to freedom of expression, the Minister of Justice has never called for a blanket ban on reporting on cases of *lèse-majesté* in the Thai media. The case of Mr. Takor and other cases relating to *lèse-majesté* have been widely reported in the Thai newspapers, television and websites which are the reflection of media freedom granted by the Thai Constitution.

2379. In this connection, the Royal Thai Government would like to share its view regarding the *lèse-majesté* law and its implication to the freedom of expression as follows:

(1) In any democratic country, it is commonly recognized that the Head of the State has a status different from that of ordinary citizens, being not an individual but an institution and a representative of the State. The King of Thailand is no exception. Such a status has been reflected in the constitutions of several democratic nations, especially the constitutions of those monarchies which stipulate the monarch's position as being revered or inviolable. Defamation against the monarch or the King is an offence and carries a penalty of a prison term of varying duration depending on the laws of each country.

(2) Thailand, as a democratic country, values equality and freedom, particularly the freedom of expression. However, it is universally recognized that freedom of expression has limits and comes with certain responsibilities, but that such limitations must be placed by law. This principle is enshrined in Article 29(2) of the Universal Declaration of Human Rights, Article 19(3) of the International Covenant on Civil and Political Rights, and Section 45 of the Constitution of the Kingdom of Thailand, B.E. 2550 (2007). As such, freedom of expression does not allow a person to verbally attack, insult or defame anyone, not to mention the Head of State.

(3) Many *lèse-majesté* cases in Thailand, including Mr. Takor's case, do not involve only defamation but also incitement to hatred of the monarchy as well as the intention to generate misunderstanding among the public on the role of the King who is above conflicts and politics. This is the prime reason why a *lèse-majesté* case in Thailand is regarded as a threat to national security as well as a serious criminal offence.

(4) The monarch constitutes not only the most revered institution of the Thai people but also one of Thailand's principal institutions that has upheld the nation's stability and security throughout its entire history. The King has tirelessly devoted himself to alleviating the plight of the Thai people and to their well-being throughout his reign. He is very much revered and regarded as a "father" to all Thais who are highly protective towards him. This explains why the Thai people have low tolerance for those who violate *lèse-majesté* law. The provisions of the Thai Constitution and Criminal Code regarding *lèse-majesté* are the product of the will of the majority of Thai people to protect the institution they revere from harm. *Lèse-majesté* is regarded as not just harmful to the person insulted but to Thai society, ethics and culture as a whole.

(5) In conclusion, *lèse-majesté* law in Thailand is not aimed at restricting the legitimate right to freedom of expression. It is important to note that a number of *lèse-majesté* cases have not been prosecuted and some have been dropped in the Court. In some cases, the Court ruled that there was no intent to defame the King. It is "intent" that the Court uses as the basis for deliberations on *lèse-majesté* cases.

Urgent appeal

2380. On 31 July 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding ongoing criminal investigations and charges being brought against individuals on the basis of the *lèse majesté* provisions of the Thai Criminal Code, namely Mr. **Jitsanu Promsorn**, Ms **Chronic Premchaiporn**, Ms **Boonyuen Prasertying**, and Ms **Daranee Charnchoengsilpakul**.

2381. A number of cases concerning *lèse majesté* have been the subject of communications sent on behalf of several mandate holders, most recently that relating to Mr. Suwicha Takor on 6 April 2009. On 15 September 2008, an urgent appeal letter was sent regarding the detention of Australian author Mr. Harry Nicolaidis. A detailed response was received on 17 October 2008, but clarification is sought on the basis of new information received.

2382. According to new information received, in recent months, an increasing number of individuals have been subjected to criminal investigations and detained on charges of *lèse majesté* in accordance with Article 112 of the Thai Criminal Code. The aforementioned article stipulates that anyone who is found to have defamed, insulted or threatened a member of the monarchy shall be punishable with a sentence of between three and 15 years of imprisonment. Individuals have the right to file a complaint with the police against anyone who they deem to have defamed the monarch and members of the royal family. Police investigations often take years to process. There are about 32 *lèse majesté* cases pending with the Police Investigations Bureau, including the following:

2383. On 23 June 2009, Mr. Jitsanu Promsorn, a leader of the movement “United Front for Democracy against Dictatorship”, was arrested by police and is to be charged with violating Article 112 of the Criminal Code for allegedly making *lèse majesté* remarks in a speech he made at Sanam Luang square in Bangkok.

2384. In April 2009, Ms Chronic Premchaiporn, owner of a news website (Prachatai.com) was arrested and charged with contravention of Article 112 of the Criminal Code. The charges relate to a comment posted by one user on her website which allegedly berated Queen Sirikit. Ms Premchaiporn faces multiple counts that could, potentially, lead to an extended prison sentence.

2385. On 20 January 2009, Dr. Giles Ji Ungpakorn, an associate Professor of political science at Chulalongkorn University, was charged with *lèse majesté* following a complaint received by police that his book entitled “A Coup for the Rich”, insulted the monarchy. The academic left for the United Kingdom on 8 February 2009 citing fears that he would not have a fair trial in Thailand.

2386. On 6 November 2008, Ms Boonyuen Prasertying, leader of the Progressive Citizen Group, was sentenced to 12 years of imprisonment for defaming the Heir Apparent, with the penalty reduced to six years due to her guilty plea. Ms Prasertying was involved in demonstrations at Sanam Luang to protest against the military change of Government in 2006, and turned herself into the police on 15 August 2008 after being informed that she had been charged with *lèse majesté*.

2387. In July 2008, Ms Daranee Charnchoengsilpakul, a campaigner for former Prime Minister Thaksin Shinawatra, was arrested after delivering a speech at a rally in Bangkok which criticised the manner by which the change of Government was brought about in 2006 and the monarchy. The trial began at the end of June 2009, with the judge ordering the case to be heard behind closed doors on national-security grounds. Ms Daranee remains in detention pending trial on charges of *lèse majesté*, despite being acquitted of other charges arising from the same events. The trial date has been set for 5 August 2009.

2388. In July 2009, police initiated an investigation into the entire Board of the Foreign Correspondents' Club of Thailand (FCCT), including its Vice-President and British Broadcasting Cooperation (BBC) correspondent Mr. Jonathan Head, on the grounds of *lèse majesté*. The FCCT board members include journalists employed by the BBC, Bloomberg, the Wall Street Journal and Inter Press Service. The Board is reportedly being investigated for insulting the monarchy by producing and selling a compilation of DVDs, one of which contains a speech made at the club in August 2007 by Mr. Jakrapob Penkair, then Office Minister of former Prime Minister Thaksin Shinawatra. The speech had been criticised as anti-monarchy by an individual who lodged the complaint. In addition, Mr. Head had already been facing *lèse majesté* charges for organizing the seminar which allowed Mr. Jakrapob to make the speech. Mr. Jakrapob also faced charges of *lèse majesté* related to the presentation.

2389. The Ministry of Information and Communications Technology (MICT) has blocked 32,500 website pages citing *lèse majesté* grounds. Justice Minister, His Excellency Pirapan Salirathavibhaga, has called on concerned agencies to take urgent action against websites allegedly critical of the Thai monarchy. More than 10,000 websites are currently being monitored. It has also been reported that dozens of internet users who posted comments on web boards have been arrested and that some will face criminal charges. In 2007, the video sharing website "YouTube" was blocked for several months. In a recent development, the *lèse majesté* law has been enforced jointly with provisions of the 2007 Computer Crime Act.

2390. Concern was expressed that the aforementioned events may be a direct attempt to prevent independent reporting in Thailand, thus stifling freedom of expression in the country.

Response from the Government

2391. In a letter dated 19 November 2009, the Government informed that Thailand takes allegations concerning the *lèse-majesté* law very seriously, and will do its utmost to clarify any misunderstanding about the law. The Government provided the following information with regard to *lèse-majesté* law in Thailand.

2392. The *lèse-majesté* law is part of Thailand's criminal code, which also contains general provisions on defamation and libel of private individuals. It provides that the King shall be held in a non-violable position and that the King shall be respected and no one shall accuse or file charges of any sort against him. This is in accordance with article 8 of the 2007 Thai Constitution.

2393. The rationale behind the law is to protect Thailand's national security because under the Thai Constitution, the monarchy is one of Thailand's principal institutions. As Thai history has shown, the bond between the Thai people and this principal institution is deeply rooted in the

history of the Thai nationhood. Furthermore, the monarchy has been central to the Thai identity, even after Thailand changed from a system of absolute monarchy to a parliamentary democracy with a constitutional monarchy in 1932.

2394. The law also gives protection to the rights or reputation of the King, the Queen, the Heir-apparent, or the Regent in a similar way libel law –which is a criminal offence- does for commoners. However, because of their exalted position – the King and other members of the Royal Family are above politics and are held with high reverence by the people- Thai law does not provide for the monarchy to take legal action against and be in conflict with the people or allow them to comment or act in their own defence. The rationale is also similar to the law on contempt of court. These institutions should remain above conflict and not be drawn into one.

2395. The law concerning *lèse-majesté* has been enacted not by any demand from those it aims to protect. The King himself is not to be averse of criticisms, having publicly expressed, in a nationwide address, his discomfort with the *lèse-majesté* law and his disagreement with the notion that “the King can do no wrong”. However, the King is not in a position to amend the law, which has the support of the general public. Legislative power lies entirely with the Parliament, which exercises the will of the Thai people.

2396. Due to what the King has done for their well-being, most Thais are profoundly respectful and highly protective toward the King. Such is part of the cultural or social values that have shaped the Thai public’s views regarding the *lèse-majesté* law and the protection of the monarchy as a principal institution.

2397. There is a real concern that in recent years, and amidst political differences, the monarchy has, for various reasons, been drawn into the current domestic political situation. In certain instances, the views expressed against the monarchy have been such that they advocate hatred or hostile feelings towards this important national institution and could undermine national security. Such a situation has prompted relevant government agencies to increase their monitoring and enforcement of applicable laws wherever violations occur.

2398. However, the Royal Thai Government recognizes that there have been problems with the enforcement of the *lèse-majesté* law, which have led to its abuse. The conditions for its enforcement will therefore be clarified. The Prime Minister has stated that the Government must uphold the laws, but would not allow people to interpret the laws too liberally and abuse them. He has already discussed with the Royal Thai Police about the necessity of enforcing the law with caution so that the law would not be abused. He has instructed the Ministry of Justice to draw up standard operation procedures so that the public knows the boundaries of this law.

2399. Thailand is committed to upholding the rights of all persons to freedom of opinion and expression as stipulated in the ICCPR and the 2007 Thai Constitution. The *lèse-majesté* law is not aimed at curbing these rights, nor the legitimate exercise of academic freedom, including the debates concerning the monarchy as an institution, which have taken place in the past. However, when these comments and opinions amount to accusations, then the person concerned should also be held accountable for the views expressed. This applies whether the target of such accusations is an individual or the monarchy. The difference lies in the fact that the monarchy is constrained in defending itself against those accusations.

2400. The lèse-majesté law serves not only the purpose of upholding national security, but also provides such protection to the monarchy.

2401. As with other criminal offences, proceedings on lèse-majesté cases are conducted in accordance with due legal process. Under the Thai Criminal Procedure Code, a person who finds a suspected lèse-majesté act may, on his or her own, set in motion legal prosecution by lodging a formal complaint with the relevant authorities. Facts and evidence must then be gathered and investigated first by the police to establish the case before it can be submitted and screened by the public prosecutor in accordance with due process of law. Only thereafter may the public prosecutor bring the case before the court. Here it should be noted that complaints are dropped if the police finds no ground to proceed.

2402. According to the police statistics, in 2006, the police received 44 complaints related to Section 112 of the Criminal Code. Of these, the police recommended that 31 cases should not be prosecuted. In 2007, the police recommended prosecution in only 7 out of 36 cases. In 2008, out of a total of 56 cases, they recommended the public prosecutor to proceed with 20 and not to prosecute 8. Four cases were dropped and 24 remain under investigation.

2403. Throughout the legal process, the defendant has the right to contest the charges and the right to a fair trial, as well as assistance from a legal counsel, if the case is brought before the court.

2404. The court may decide to hold a trial on a lèse-majesté case in camera. Thai law provides that the judge may use discretion to hold closed trials in certain cases if they deemed to involve sensitive matters in the interest of public order, good morals or national security, which is consistent with practice in other countries as well as the relevant international law (art. 14 of the ICCPR).

2405. As for those found guilty, they have the right to appeal to higher courts, and once their cases become final, they may request royal pardons. It is not uncommon for royal pardons to be granted in such cases.

Letter of allegations

2406. On 28 August 2009, the Special Rapporteur sent a letter of allegation to the Government regarding the creation of an Information Technology taskforce within the Ministry of Information and Communications Technology (MICT) allegedly to enforce the lèse majesté provisions of the Thai Criminal Code.

2407. The Special Rapporteur noted that a number of communications concerning lèse majesté have been sent to the Government on behalf of several mandate holders, most recently that relating to criminal charges brought against individuals on the basis of lèse majesté on 31 July 2009. He expressed that he looked forward to receiving a response to the communication, but sought clarification on the basis of new information received.

2408. According to new information received, a new police taskforce, known as the Information Technology taskforce and headed by Police Lt. General Somdej Kahokahm, has been created

within MICT. This taskforce reportedly includes webmasters and computer-literate personnel to monitor websites and to identify those posting content that violates lèse majesté.

2409. Concern was expressed that the creation of this body will further curtail the right to freedom of opinion and expression in Thailand, particularly given the fact that under the Computer Crime Act, which took effect in 2007, the individual records of Internet users must be kept by Internet Service Providers for 90 days and can be examined by the authorities without referring to a judge.

Observations

2410. The Special Rapporteur thanks the Government for its responses, but regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 28 August 2009.

Tunisia

Lettre d'allégations

2411. Le 12 janvier 2009, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants, a envoyé une lettre d'allégations au Gouvernement sur la situation de situation de **Adnane Haji, Béchir Labidi, Adel el Jayari, Tayeb Ben Othmane, Tarek Hlimi, Hassen Ben Abdallah, Maher Fajraoui, Fayçal Ben Amor, Sami Ben Ahmed dit Amid, Haroun Halimi, Ghanem Chraïti, Moudhafer Labidi, Ridha Ezzedinne, Abdessalem Hlati, Abid Klayifi, Rachid Idaoui, Fahem Boukaddouss, Boubaker Ben Boubaker, Hafnaoui Ben Othman, Mahmoud Raddadi, Hedi Bouslah, Ridha Amaïdi, Issam Fejraoui, Thamer Maghzaoui, Mouhieddine Cherbib, Mouadh Ahmadi, Abdallah Fajraoui, Mohamed Baldi, Radhouane Bouzayane, Makram Majdi, Othman Ben Othman, Mahmoud Helali, Mohsen Amidi**, membres du mouvement de protestation sociale dans la région de Gafsa. M. Adnane Haji a fait l'objet d'un appel urgent envoyé par le Rapporteur spécial sur l'indépendance des juges et des avocats, l'ancien Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur la torture, l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et l'ancienne Vice-présidente du Groupe de Travail sur la détention arbitraire le 10 avril 2008. Selon les informations reçues:

2412. Le 11 décembre 2008, la Chambre criminelle du Tribunal de première instance de Gafsa aurait retenu les charges de « participation à une entente criminelle en vue de commettre des attentats contre les personnes et les biens, rébellion armée commise par plus de dix personnes et troubles à l'ordre public » contre les 33 personnes précitées et les aurait condamnées à des peines allant de deux ans d'emprisonnement avec sursis à dix ans et un mois de prison ferme. Cinq autres personnes auraient été relaxées dans le cadre de ce procès.

2413. Il est allégué que ces 33 personnes n'auraient pas bénéficié d'un procès juste et équitable dans la mesure où les droits de la défense n'auraient pas été respectés. En effet, la défense n'aurait pu présenter sa plaidoirie et les prévenus n'auraient été interrogés. Par ailleurs, le verdict

aurait ignoré les éléments de l'ordonnance de clôture du juge d'instruction faisant mention des stigmates physiques (traces de coups, hématomes) qu'il aurait constatés sur 10 des 38 prévenus.

2414. Les 33 personnes condamnées dans le cadre de cette affaire auraient interjeté appel et l'audience en appel se tiendrait devant la Cour d'appel de Gafsa le 13 janvier 2009.

2415. Des craintes sont exprimées quant au fait que la condamnation en première instance des 33 personnes précitées soit liée à leurs activités non-violentes de promotion et protection des droits de l'homme. Des craintes sont également exprimées que les dysfonctionnements précités lors du procès en première instance aient compromis le principe du droit à un procès équitable. Il est à craindre que des dysfonctionnements graves affectent également le bon déroulement du procès en appel.

Réponse du Gouvernement

2416. Le 31 mars 2009, le Gouvernement tunisien a répondu à la lettre d'allégations du 12 janvier 2009. Le Gouvernement précise que les prévenus visés dans la communication ont constitué une entente, sur fond de certains troubles enregistrés dans la région de Gafsa, afin d'appeler à la désobéissance publique, transformant ainsi le mouvement de contestation pacifique en une véritable rébellion comme l'indique notamment la diffusion de tracts d'incitation à la commission d'actes d'agression et des voies de fait contre les forces de l'ordre. Au cours de la manifestation, les agents ont été la cible de cocktails Molotov et de jets de pierre et les édifices publics et privés, les voitures et les vitrines de commerce ont subi des dégâts graves. Un rapport détaillé de ces dommages, appuyé par des expertises techniques et illustré par des photos, est inclus dans le dossier de l'instruction.

2417. Contrairement à ce qui est allégué, le tribunal de première instance de Gafsa a consigné les allégations de mauvais traitements présentés par les prévenus dans les procès-verbaux d'audience. Quant à l'examen des allégations de mauvais traitements, toute la procédure d'instruction a été soumise au contrôle de la Chambre d'accusation puis de la Cour de cassation et les autorités tunisiennes n'ont constaté aucun motif raisonnable laissant croire qu'un acte de mauvais traitement ait été commis. Le juge d'instruction a d'une part, constaté des écorchures et de légers hématomes sur certains des prévenus et d'autre part verser au dossier des expertises médicales faisant état de blessures et de traces de violence à l'encontre de 7 agents de l'ordre. Des heurts entre manifestants violents et forces de l'ordre ne pouvaient pas ne pas laisser des traces physiques dans les deux camps. La qualification de mauvais traitements ne pouvait être retenue dès lors que les écorchures et hématomes étaient dus aux affrontements que les prévenus ont eux-mêmes provoqués.

2418. La Cour de cassation a examiné et rejeté la requête tendant à l'annulation des poursuites au motif que les aveux des prévenus auraient été extorqués sous la contrainte. La Cour de cassation a notamment conclu qu'« aucun acte d'agression ne pouvait être imputé aux officiers en charge de l'enquête préliminaire ce qui est de nature à écarter toute contestation de légalité relative aux actes accomplis par eux ».

2419. Concernant le respect des droits de la défense des prévenus, les procédures d'instruction et de jugement se sont déroulées conformément à la législation en vigueur et dans le respect total des droits de la défense des prévenus. Le procès des prévenus s'est tenu publiquement en

première instance devant le tribunal de première instance de Gafsa. L'allégation selon laquelle « la défense n'aurait pas pu présenter sa plaidoirie et les prévenus n'auraient pas été interrogés » est une allégation dénuée de tout fondement. Dès le début de l'audience, certains des avocats de la défense ont affiché leur hostilité au respect de la procédure telle que prévue par la loi s'opposant à la poursuite normale de l'examen du dossier et appelant leurs clients à refuser tout interrogatoire. Appelés par le tribunal à présenter leurs plaidoiries afin que leurs demandes formelles soient examinées en même temps que l'examen du dossier sur le fond, ces avocats s'y sont refusés. Le tribunal a dû alors renvoyer l'affaire en délibéré. Les prévenus condamnés ont interjeté appel du jugement. Au cours de l'audience, la Cour a procédé à l'interrogatoire des prévenus avant de donner la parole aux avocats qui ont présenté leurs moyens. La Cour a rendu son verdict le 4 février 2009, revoyant à la baisse les peines prononcées à l'encontre de prévenus, non en état de fuite.

2420. Les prévenus condamnés n'ont jamais été mis en cause pour des faits en rapport avec des activités touchant à la défense des droits de l'homme mais pour des faits érigés en infraction par la loi ayant trait au port d'armes, fabrication de cocktails Molotov, agression des agents de l'ordre et détérioration des biens publics et privés. Aucun des chefs de poursuite ne se rapporte à des activités en rapport avec une quelconque participation à des contestations pacifiques ou défense des droits de l'homme. La condamnation des prévenus n'est donc pas en rapport avec une quelconque participation à des contestations pacifiques ou défense des droits de l'homme. La législation tunisienne et notamment la loi du 24 janvier 1969 régleme les réunions publiques, cortèges, défilés, manifestations et attroupements. Le régime institué par cette loi est très favorable à l'exercice de la liberté de réunion et de manifestation puisqu'il ne les soumet à aucune autorisation préalable. C'est dans ce cadre légal que plusieurs des habitants de la région de Gafsa ont exercé leur liberté de manifester pacifiquement. Il est toutefois regrettable que certains individus, dont les prévenus susvisés, se soient confondus au sein des manifestants pour appeler à la désobéissance publique et porter atteinte aux personnes et aux biens. Dans ce cas, il y a violation de la loi pénale et non exercice de la liberté de réunion et de manifestation. A cet égard, il y a lieu de rappeler que la Constitution tunisienne et le Pacte international relatif aux droits civils et politiques insistent sur le respect de la sécurité et l'ordre public lors de l'exercice du droit de réunion et de contestation. L'article 21 du Pacte précise que le droit de réunion garanti est le droit de réunion « pacifique ». Il est nécessaire de distinguer les activités de défense des droits de l'homme des activités délictueuses qui portent atteinte à la sécurité des personnes et des biens. Etant justifiées par des faits délictueux commis, les condamnations prononcées à l'encontre des prévenus reconnus coupables ne violent donc aucun des instruments internationaux de protection des droits de l'homme.

Appel urgent

2421. Le 30 juin 2009, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants, a envoyé un appel urgent concernant des actes de harcèlement répétés contre un nombre des défenseurs des droits de l'homme tunisiens, y compris Me **Radia Nasraoui**, présidente de l'Association de lutte contre la torture en Tunisie, Me **Raouf Ayadi**, ancien Secrétaire général du Conseil national pour les libertés en Tunisie (CNLT), M. **Hamma Hammami**, mari de Me Nasraoui, Me **Samir Dilou**, avocat membre de l'Association internationale de soutien aux prisonniers politiques, et Me **Abdelwahab Maatar**. Me Nasraoui,

Me Ayadi, M. Hamma Hammami et Me Dilou ont fait l'objet de nombreuses communications envoyées par les Procédures Spéciales depuis 2004. Selon les nouvelles informations reçues :

2422. Le 23 juin 2009, de retour de Genève, Me Nasraoui et Me Ayadi auraient été violemment agressés par un groupe de policiers en civil à l'aéroport de Tunis-Carthage. Ceux-ci auraient sommés Me Nasraoui, Me Ayadi, ainsi que Me Dilou également présent, de les suivre dans un bureau afin d'effectuer une fouille corporelle. En l'absence de justification légale fournie par les policiers, Me Ayadi aurait refusé de se soumettre à cette fouille et aurait été roué de coups par quatre policiers, devant les voyageurs présents. Ses vêtements auraient également été déchirés. Il aurait ensuite été transporté de force dans une pièce isolée où il aurait à nouveau été battu ainsi qu'insulté, puis soumis à la fouille corporelle. Les documents professionnels contenus dans les bagages des trois avocats auraient été inspectés. Les documents de Me Dilou auraient également été aspergés d'un produit chimique afin de les rendre illisibles.

2423. Au même moment, Me Nasroui, témoin de la scène, aurait appelé son mari, M. Hammami, qui l'attendait alors dans la zone d'arrivée. Un policier lui aurait tordu le bras afin d'interrompre la conversation téléphonique et l'aurait jetée à terre et traînée jusqu'à un bureau où elle aurait été fouillée. Son téléphone et son ordinateur portable auraient été jetés plus loin. Me Nasraoui souffrirait de contusions au bras droit.

2424. En quittant la zone de contrôle, Me Nasraoui et Me Ayadi auraient à nouveau insultés par les agents de la sécurité d'Etat de la force qui les escortaient. M. Hammami aurait été violenté alors qu'il protestait contre ce qui venait d'arriver. Un policier aurait porté un violent coup de pied à Me Ayadi, lui entaillant le genou.

2425. Le même jour, Me Mataar aurait subi un traitement similaire à l'aéroport de Sfax, à son retour de Paris. Il aurait également refusé de subir une fouille corporelle et aurait été détenu pendant deux heures. Un policier lui aurait donné un coup de poing au visage, brisant ses lunettes.

2426. Le 19 mai 2009, Me Nasraoui, de retour de Paris où elle avait été invitée à participer à une conférence organisée par des candidats aux récentes élections européennes, aurait subi une fouille de ses affaires (valise et sacoche) avant de se voir intimer l'ordre d'obtempérer pour une fouille corporelle. Me Nasraoui s'y serait opposée et aurait alors été insultée et escortée jusqu'en dehors de l'aéroport.

2427. De sérieuses craintes sont exprimées quant au fait que les mesures de fouilles corporelles répétées et l'usage excessif de la force contre Me Nasraoui, Me Ayadi, Me Mataar, Me Dilou et M. Hammami soient liés à leurs activités légitimes et non-violentes de défense des droits de l'homme. Des craintes similaires sont exprimées quant au fait que ces nouveaux actes s'inscrivent dans une campagne d'humiliation et d'intimidation à l'égard des personnes précitées.

2428. Par ailleurs, nous souhaitons attirer l'attention du Gouvernement de votre Excellence sur le fait que Me Nasraoui et Me Mokhtar Trifi, Président de la Ligue tunisienne pour la défense des droits de l'homme, se sont entretenus avec la Rapporteuse Spéciale sur la situation des défenseurs des droits de l'homme en Tunisie le 30 juin 2009 à Genève. Eu égard aux faits

précités et du fait de leur retour imminent en Tunisie, nous souhaitons exprimer de vives craintes pour l'intégrité physique et morale de Me Nasraoui et Me Trifi.

Lettre d'allégations

2429. Le 5 octobre 2009, le Rapporteur spécial, conjointement avec la Rapporteur spécial sur la situation des défenseurs des droits de l'homme, le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants, la Rapporteuse spéciale sur l'indépendance des juges et des avocats, a envoyé une lettre d'allégations concernant la situation des 38 membres du mouvement de protestation sociale dans la région de Gafsa, **Fayçal Ben Ahmed Ben Hassan Ben Amor, Hafnaoui Ben Tahar Ben Othmane, Ali Ben Soltane Ben Ibrahim Jedidi, Thameur Ben Amor Ben Younes Maghzaoui, Ridha Ben Salah Ben Arbi Ezzedini, Issam Ben Amor Ben Tayeb Fajraoui, Mouaadh Ben Nasser Ben Sassi Ahmadi, Abdessalem Ben Mohamed Ben Ali Helali, Mahmoud Ben Mohamed Imam Ben Mohamed Raddadi, Hedi Ben Amor Ben Ali Bouslahi, Abdallah Ben Soltane Ben Ahmed Fajraoui, Mohamed Ben Salah Ben Makki Al-Baldi, Tarek Ben Mohamed Salah Ben Boubakeur Hlimi, Bechir Ben Mohamed Ben Othmane Abidi, Adel Ben Ali Ben Salah Jayyar, Ismaïl Ben Abdelaziz Ben Farah Aljawhari, Lazhar Ben Ahmed Ben Ammar Ben Abdelmalek, Moudhaffar Ben Bechir Ben Mohamed Abidi, Haroun Ben Mohamed Salah Ben Boubakeur Hlimi, Taïeb Ben Abderrahmane Bellassoued Ben Othmane, Boubakeur Ben Mohamed Al-Arbi Ben Boubakeur, Radhouane Ben Mohamed Ben Ahmed Bouzayyane, Makram Ben Houcine Ben Ali Majdi, Adnane Hajji, Sami Ben Mohamed Ben Tahar Ben Ahmed alias Sami Amaydi, Othman Ben Abderrahman Bellassoued Ben Othman, Ghanem Ben Boujoumaâ Ben Naoui Chrayti, Mahmoud Ben Ali Ben Mohamed Helali, Boujoumaa Ben Naoui Ben Ali Chrayti, Abid Ben Ahmed Ben Messaoud Khlayfi, Habib Ben Abbes Khedhir, Rachid Ben Salah Ben Ali Abdaoui, Hassaan Ben Taïeb Ben Messaoud Ben Abdallah, Mohsen Ben Ahmed Ben Ali Aamaydi, Maher Ben Mohamed Ben Amara Fajraoui, Ridha Ben Lazhari Ben Mohamed Aamaydi, Fahem Ben Kefi Ben Amara Boukaddous et Mouhieddine Ben Amor Ben Mostapha Cherbib.** Ce cas a fait l'objet d'un appel urgent envoyé par le Rapporteur spécial sur l'indépendance des juges et des avocats, l'ancien Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur la torture, l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et l'ancienne Vice-présidente du Groupe de Travail sur la détention arbitraire le 10 avril 2008. Une lettre d'allégation a également été envoyée le 12 janvier 2009. Nous accusons réception des réponses du gouvernement aux communications précitées datées du 5 février et du 31 mars 2009 respectivement. Selon les informations reçues :

2430. Le 22 août 2009, la Cour de cassation de Tunis aurait rejeté le pourvoi en cassation des 38 membres précités du mouvement du bassin minier de Gafsa. Cette décision confirme les peines prononcées en appel allant de deux à huit ans de prison ferme à l'encontre de ces personnes pour « participation à une entente criminelle en vue de commettre des attentats contre les personnes et les biens, rébellion armée commise par plus de dix personnes et troubles à l'ordre public ».

2431. Il est allégué que ces personnes n'auraient pas bénéficié d'un procès juste et équitable dans la mesure où les droits de la défense n'auraient pas été respectés. Il est allégué que le 3 février 2009, la Cour d'appel de Gafsa aurait rendu son jugement sans statuer sur les allégations de torture et les irrégularités du dossier soulevées par les avocats de la défense depuis le début du procès. Par ailleurs, le Procureur n'aurait pas fait de réquisitoire.

2432. Il est également allégué que 33 des ces 38 condamnés seraient détenus dans des centres de détention éloignés de leurs familles dont ils dépendent matériellement, les autres étant en fuite.

2433. Des craintes sont exprimées quant au fait que la condamnation des 38 personnes précitées soit liée à leurs activités non violentes de promotion et protection des droits de l'homme. Des craintes sont également exprimées que les dysfonctionnements cités lors du procès aient compromis le principe du droit à un procès équitable. Compte tenu des allégations d'actes de torture formulées, des craintes sont également exprimées quant à l'intégrité physique et mentale des prisonniers.

Réponse du Gouvernement

2434. Le 25 janvier 2010, le Gouvernement tunisien a répondu à la lettre d'allégations du 5 octobre 2010. Le Gouvernement précise que selon les éléments de l'instruction préparatoire diligentée par le procureur de la République de Gafsa, les prévenus visés dans la communication ont constitué une entente, sur fond de certains troubles enregistrés dans la région de Gafsa, sud de la Tunisie, afin d'appeler à la désobéissance publique, transformant ainsi le mouvement de contestation pacifique en une véritable rébellion comme l'indique notamment la diffusion de tracts d'incitation à la commission d'actes d'agression et des voies de fait contre les forces de l'ordre.

2435. Les prévenus avaient effectivement mis leur plan à exécution se mettant à la tête d'une manifestation de plusieurs dizaines de personnes au cours de laquelle les agents de l'ordre public étaient la cible de cocktails Molotov et de jets de pierre provoquant ainsi des lésions corporelles à plusieurs d'entre eux. Les édifices publics et privés, voitures et vitrines de commerce n'ont pas été épargnés subissant également des dégâts graves. Il s'en est suivi un état de panique parmi les populations de la région de Gafsa dont la sécurité était bel et bien menacée.

2436. Dans le cadre de l'instruction préparatoire, le juge d'instruction en charge du dossier, a procédé à plusieurs auditions et notamment celle de 7 agents de l'ordre ayant présenté chacun des expertises médicales faisant état de blessures et de traces de violence occasionnées par des jets de pierre et des coups de bâton.

2437. Par ailleurs, un rapport détaillé des dommages aux édifices publics et privés, appuyé par des expertises techniques et illustré par des photos des édifices saccagés, est inclus dans le dossier de l'instruction.

2438. L'allégation selon laquelle la Cour d'appel de Gafsa avait rendu son jugement « sans statuer sur les allégations de torture et les irrégularités du dossier soulevé par les avocats de la défense depuis le début du procès » est, en fait, une allégation dépourvue de tout fondement. En effet, la cour a consigné ces allégations dans les procès-verbaux d'audience.

2439. Quant à l'examen des allégations de mauvais traitements et d'irrégularité du dossier, toute la procédure d'instruction a été soumise au contrôle de la Chambre d'accusation puis de la Cour de cassation, saisie sur pourvoi formé par certains des prévenus contre l'arrêt de la chambre d'accusation.

2440. En réponse au grief tiré de la nullité des poursuites au motif que les aveux des prévenus aurait été extorqués sous la contrainte, la Cour de cassation a rejeté, par son arrêt du 15 novembre 2008, ledit grief motivant son arrêt par le fait que les allégations des prévenus « n'étaient reflétées dans aucune des pièces du dossier dès lors que les traces d'écorchures et de légers hématomes, constatées sur certains d'entre eux, évoquaient plutôt qu'elles étaient causées par l'affrontement des prévenus aux forces de l'ordre et ne sont nullement en rapport avec les officiers de police judiciaire chargés quant à eux de diligenter l'enquête » et à la Cour de cassation de conclure qu'« aucun acte d'agression ne pouvait être imputé aux officiers en charge de l'enquête préliminaire ce qui est de nature à écarter toute contestation de légalité relative aux actes par eux accomplis ».

2441. Ainsi, l'allégation de mauvais traitements a été examinée et tranchée par la Cour de cassation, juridiction dotée du pouvoir de contrôler la régularité des actes d'instruction, laquelle a rendu une décision de rejet, passée en force de chose jugée sur ce grief. En outre l'affrontement violent des prévenus aux forces de l'ordre est certainement de nature à causer des blessures aux deux parties. C'est dans ce cadre que le juge d'instruction a, d'une part, constaté des écorchures et de légers hématomes sur certains des prévenus et a versé, d'autre part, au dossier des expertises médicales dont 7 agents de l'ordre étaient concernés, expertises faisant état de blessures et de traces de violence occasionnées par des jets de pierre et des coups de bâton. La qualification « d'actes de mauvais traitements » ne pouvait être retenue pour les légers écorchures et hématomes des lors qu'ils étaient dus aux affrontements que les prévenus ont eux-mêmes provoqués. Il est à préciser qu'aucun des prévenus ou des membres de leurs familles ou de leurs avocats n'a déposé de plainte indépendante pour mauvais traitements.

2442. En l'espèce, les autorités tunisiennes n'ont constaté aucun motif raisonnable laissant croire qu'un acte de mauvais traitement ait été commis. En l'espèce, les autorités tunisiennes n'ont constaté aucun « motif raisonnable » laissant croire qu'un acte de mauvais traitement ait été commis. En effet, chacun des prévenus étaient en droit, durant sa garde à vue, de demander, conformément à l'article 13 bis du Code de procédure pénale, qu'il soit soumis à examen médical. Cette possibilité appartient également aux membres de leurs familles qui peuvent demander l'examen médical pour leurs proches même si ceux-ci ne l'ont pas fait. Un tel droit a pour objectif de permettre aux détenus de faire constater les traces, physique ou psychologique, de mauvais traitements subis lors de la garde à vue. Les procès-verbaux de la garde à vue font état de l'information donnée aux prévenus de leur droit de demander d'être soumis à un examen médical, ceux-ci avaient déclaré ne pas en avoir besoin. En outre, aucun des membres de leurs familles n'avait présenté de demande dans ce sens ce qui révèle le caractère infondé des allégations de mauvais traitements formulés par les prévenus.

2443. Concernant le respect des droits de la défense des prévenus, les procédures d'instruction et de jugement se sont déroulées conformément à la législation en vigueur et dans le respect total des droits de la défense des prévenus. En effet, Le Procureur de la République a été immédiatement avisé de l'enquête préliminaire et de la mesure de garde à vue décidée à l'encontre des prévenus pour une période de 3 jours conformément aux articles 11 et 13 bis du

Code de procédure pénale. Une prolongation de 3 jours supplémentaires a été décidée par ordonnance écrite et motivée du Procureur de la République pour certains prévenus, dictée par les besoins de l'enquête. L'enquête préliminaire menée par la police judiciaire a donc été effectuée en toute légalité sous le contrôle de la justice.

2444. Dès clôture de l'enquête préliminaire, le procès verbal a été transmis au Ministère public qui a décidé de la libération des prévenus gardés à vue et ordonné un complément d'information. Une instruction préparatoire a été par la suite ordonnée par réquisitoire du Procureur de la République en date du 20 juin 2008 aux fins d'instruire sur les faits reproches aux prévenus et procéder à tous les actes nécessaires à la manifestation de la vérité.

2445. Après accomplissement de tous les actes nécessaires à la manifestation de la vérité, le juge d'instruction a procédé à la clôture de l'information et a ordonné le renvoi des prévenus devant la Chambre d'accusation avec un exposé détaillé de la procédure et une liste complète des pièces saisies. L'ordonnance de renvoi devant la Chambre d'accusation a été notifié à chacun des prévenus qui ont décidé d'interjeter appel de l'ordonnance. La chambre d'accusation a rejeté le recours en appel et renvoyé les trois prévenus devant la juridiction compétente pour répondre notamment des chefs d'accusation suivants :

- Affiliation à une bande et participation à une entente dans le but de préparer et de commettre un attentat contre les personnes et les propriétés (articles 131 et 132 du Code pénal);
- Fourniture de lieux de réunion et de contribution pécuniaire aux membres d'une bande de malfaiteurs (article 133 du Code pénal);
- Participation à une rébellion armée par plus de dix personnes au cours de laquelle des voies de fait ont été exercées sur un fonctionnaire dans l'exercice de ses fonctions;
- Collecte de fonds sans autorisation (décret du 21 décembre 1944); et
- Dommage volontaire à la propriété d'autrui (article 304 du code pénal).

2446. Les prévenus se sont pourvus en cassation contre l'arrêt de la Chambre d'accusation. La Cour de cassation n'a décelé dans la procédure d'instruction aucune violation de la loi ou atteinte aux droits de la défense et a, par conséquent, décidé le rejet du pourvoi.

2447. Le procès des prévenus s'est tenu publiquement en première instance devant le tribunal de première instance de Gafsa. Lors de cette audience, le tribunal a recueilli la constitution des avocats des prévenus puis a donné suite à la demande de libération de huit d'entre eux et au renvoi de l'affaire, sur demande des avocats, à l'audience du 11 décembre 2008 pour leur permettre de préparer leurs moyens de défense et poursuivre l'examen de l'affaire. La poursuite de l'examen de l'affaire devait permettre, au tribunal, selon les termes de l'article 143 du Code de procédure pénale, après lecture de l'acte d'accusation, de procéder à l'interrogatoire des prévenus, de recueillir, le cas échéant, la constitution ainsi que les conclusions de la partie civile pour enfin permettre aux avocats de présenter leurs plaidoiries. Cependant, dès le début de l'audience, certains des avocats de la défense ont affiché leur hostilité au respect de la procédure telle que prévue par la loi s'opposant à la poursuite normale de l'examen du dossier et appelant

leurs clients à refuser tout interrogatoire. Appelés par le tribunal à présenter leurs plaidoiries afin que leurs demandes formelles soient examinées en même temps que l'examen du dossier sur le fond, ces avocats s'y sont refusés. Le tribunal a dû alors renvoyer l'affaire en délibéré.

2448. Après délibéré, le tribunal a rendu son verdict décidant de la relaxe de certains des prévenus et condamnant les autres à des peines allant de deux ans d'emprisonnement avec sursis à 10 ans et un mois d'emprisonnement ferme du chef d'entente criminelle portant atteinte aux personnes et aux biens et rébellion armée par plus de dix personnes au cours de laquelle des voies de fait ont été exercées sur un fonctionnaire dans l'exercice de ses fonctions, jets de pierres sur les propriétés d'autrui et bruit et tapage de nature à troubler la tranquillité des habitants.

2449. Les prévenus condamnés ont interjeté appel du jugement. Au cours de l'audience du 3 février 2009, la Cour a tout d'abord procédé à l'interrogatoire des prévenus. L'allégation selon laquelle le président de la séance aurait refusé de lire l'acte d'accusation est totalement infondée, l'accomplissement de cette formalité étant consigné dans le procès-verbal de l'audience. La Cour d'appel a ensuite donné la parole aux avocats qui ont présenté leurs moyens. La Cour a rendu son verdict le 4 février 2009, revoyant à la baisse les peines prononcées à l'encontre de prévenus, non en état de fuite.

2450. Concernant les bases légales de l'arrêt de la Cour de cassation du 21 août 2009, il y a lieu de préciser que le rejet du pourvoi de Béchir Labidi s'explique par l'omission par l'intéressé d'accomplir les formalités nécessaires à la recevabilité en la forme du pourvoi en cassation. L'intéressé a en effet enfreint à une formalité obligatoire exigée par l'article 263 du Code de procédure pénale selon lequel l'auteur du pourvoi doit, à peine de déchéance, présenter au greffe de la Cour de cassation un mémoire indiquant les moyens du pourvoi et précisant les griefs à l'encontre de la décision attaquée. Les pourvois des autres prévenus ont été en revanche déclarés, en vertu du même arrêt, recevables en la forme mais ont été rejetés quant au fond. La Cour de cassation s'est prononcée à deux reprises et par des formations différentes sur les allégations de mauvais traitements écartant à chaque fois ces allégations pour inexistence d'une quelconque violation de la Convention internationale contre la torture et autres peines ou traitements cruels, inhumains ou dégradants.

2451. Les prévenus condamnés n'ont jamais été mis en cause pour des faits en rapport avec des activités touchant à la défense des droits de l'homme mais pour des faits érigés en infraction par la loi ayant trait au port d'armes, fabrication de cocktails Molotov, agression des agents de l'ordre et détérioration des biens publics et privés. Aucun des chefs de poursuite ne se rapporte à des activités en rapport avec une quelconque participation à des contestations pacifiques ou défense des droits de l'homme.

2452. La condamnation des prévenus n'est donc pas en rapport avec une quelconque participation à des contestations pacifiques ou défense des droits de l'homme. La législation tunisienne et notamment la loi du 24 janvier 1969 régit les réunions publiques, cortèges, défilés, manifestations et attroupements. Le régime institué par cette loi est très favorable à l'exercice de la liberté de réunion et de manifestation puisqu'il ne les soumet à aucune autorisation préalable. C'est dans ce cadre légal que plusieurs des habitants de la région de Gafsa ont exercé leur liberté de manifester pacifiquement. Il est toutefois regrettable que certains individus, dont les prévenus susvisés, se soient confondus au sein des manifestants pour appeler

à la désobéissance publique et porter atteinte aux personnes et aux biens. Dans ce cas, il y a violation de la loi pénale et non exercice de la liberté de réunion et de manifestation. A cet égard, il y a lieu de rappeler que la Constitution tunisienne et le Pacte international relatif aux droits civils et politiques insistent sur le respect de la sécurité et l'ordre public lors de l'exercice du droit de réunion et de contestation. L'article 21 du Pacte précise que le droit de réunion garanti est le droit de réunion « pacifique ». Il est nécessaire de distinguer les activités de défense des droits de l'homme des activités délictueuses qui portent atteinte à la sécurité des personnes et des biens. Etant justifiées par des faits délictueux commis, les condamnations prononcées à l'encontre des prévenus reconnus coupables ne violent donc aucun des instruments internationaux de protection des droits de l'homme.

2453. Concernant les conditions de détention des prévenus, l'allégation selon laquelle les prévenus condamnés « seraient détenus dans des centres de détention éloignés de leurs familles dont ils dépendent matériellement » mérite éclaircissement. En effet, l'administration pénitentiaire veille à ce que les condamnés soient incarcérés dans les unités pénitentiaires les plus proches des lieux de résidence de leurs familles afin de leur faciliter l'exercice du droit de visite de leurs proches. Cependant, la prison de Gafsa, unité pénitentiaire la plus proche des lieux de résidence des familles des condamnés n'offrant pas, à la date d'incarcération des prévenus, de places libres pouvant les accueillir, ceux-ci ont donc été placés dans les unités pénitentiaires les plus proches offrant des disponibilités d'accueil. Le rapprochement des prévenus incarcérés des lieux de résidence de leurs familles se fait par ordre de priorité selon les disponibilités, les places étant prioritairement affectées aux détenus les plus anciens. L'impératif d'égalité s'oppose absolument à ce que les prévenus visés dans la communication soient préférés à d'autres en les plaçant prioritairement dans la prison de la ville de Gafsa.

2454. Les condamnés incarcérés en vertu des jugements rendus à leur encontre ont bénéficié d'une mesure de libération conditionnelle et ont été remis en liberté le 4 novembre 2009. Cette libération, accordée pour des considérations humanitaires, trouve son fondement dans l'article 353 du Code de procédure pénale selon lequel la libération conditionnelle peut être accordée « à tout condamné ayant à subir une ou plusieurs peines privatives de liberté qui aura témoigné de son amendement par sa conduite en détention ».

Appel urgent

2455. Le 5 novembre 2009, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants, a envoyé un appel urgent au Gouvernement sur la situation de MM. **Taoufik Ben Brik, Slim Boukhdir** et **Mouldi Zouabi**. M. Ben Brik est journaliste et membre fondateur du Conseil national pour les libertés en Tunisie (CNLT). M. Slim Boukhdir est le correspondant du journal panarabe Al Quds Al Arabi basé à Londres, du site Internet de la chaîne de télévision satellitaire Al-Arabiya, et membre fondateur de l'association de défense des libertés Liberté et équité. M. Zouabi est journaliste à Radio Kalima. M. Boukhdir a fait l'objet de communications envoyées par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, le Rapporteur spécial sur l'indépendance des juges et des avocats et le Rapporteur spécial sur la torture le 6 juin 2008, et par 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 le 10 décembre 2007. Nous accusons réception de la réponse du Gouvernement de votre Excellence datée du 1er février 2008. Selon les informations reçues :

2456. Le 28 octobre 2009, M. Boukhdir aurait été enlevé devant son domicile par un groupe d'hommes en tenue civile. M. Boukhdir aurait reconnu l'un des membres du groupe comme étant un policier. Les hommes lui auraient bandé les yeux avant de le forcer à les suivre vers une destination inconnue. M. Boukhdir aurait ensuite été violemment battu, dépouillé de son téléphone et de sa carte d'identité, puis déshabillé avant d'être libéré. M. Boukhdir souffrirait d'une fracture du nez et de problèmes oculaires. Il est allégué que ce passage à tabac ferait suite à une interview de M. Boukhdir par la British Broadcasting Corporation (BBC) au sujet des élections présidentielles et législatives du 25 octobre 2009.

2457. Le même jour, des inconnus auraient tenté de s'introduire chez M. Zouabi à plusieurs reprises. La police, alertée par M. Zouabi, se serait rendue sur les lieux. Il est également allégué que M. Zouabi serait suivi par la police depuis plusieurs jours.

2458. Le 29 octobre 2009, M. Ben Brik aurait été écroué au centre de détention préventive de Bouchoucha, suite à sa convocation au commissariat. Cette arrestation ferait suite à une plainte déposée par une femme affirmant s'être fait agressé par M. Ben Brik le 22 octobre 2009. Il est allégué que l'auteur de cette plainte aurait en fait interpellé M. Ben Brik en l'insultant avant de déchirer ses propres vêtements. M. Ben Brik, qui nierait tout acte de violence à l'encontre de cette femme, devrait comparaître le 19 novembre 2009 devant le Tribunal de première instance de Tunis pour « agression ». Le 2 Novembre 2009, le directeur et le sous-directeur de la prison de Mornaguia, près de Tunis, auraient empêché ses avocats de le rencontrer en dépit d'un bulletin de visite signé par le substitut du Procureur. Il est allégué que cette arrestation serait liée à la publication par M. Ben Brik d'articles sur les violations alléguées des droits de l'homme qui se seraient multipliées dans le cadre de la campagne électorale.

2459. Des craintes sont exprimées quant au fait que cette arrestation et ces incidents soient liés aux activités non violentes de promotion et de protection des droits de l'homme de MM. Ben Brik, Boukhdir et Zouabi, et ce dans l'exercice de leur droit à la liberté d'opinion et d'expression. Compte tenu des allégations d'actes de violences perpétrés à l'encontre de M. Boukhdir, des craintes sont également exprimées quant à son intégrité physique et psychologique.

Appel urgent

2460. Le 22 février 2010, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, a envoyé un appel urgent au Gouvernement sur la situation de **M. Khémaïs Chammari, Mohamed Abbou et Ayachi Hammami**. M. Chammari est membre co-fondateur de la Fondation euro-méditerranéenne de soutien aux défenseurs des droits de l'Homme (FEMDH). Me Abbou est avocat et membre du Conseil national pour les libertés en Tunisie. M. Hammami est avocat. Tous trois sont membres de la Commission Nationale pour la Liberté d'expression et d'information, du Collectif du 18 octobre pour les droits et les libertés et du groupe indépendant d'échange et d'information sur les élections municipales. Messieurs Chammari, Abou et Hammami ont fait l'objet de plusieurs communications envoyées en 2005 et 2006.

2461. Selon les informations reçues, depuis la mi-février 2010, MM. Chammari, Abbou et Hammami seraient constamment suivis par la police et leurs résidences seraient surveillées par une dizaine de policiers. Ces derniers auraient notamment empêchés plusieurs défenseurs des droits de l'homme de se rendre au domicile de M. Chammari.

2462. Le 19 février 2010, M. Chammari se serait vu signifier par la police qu'il lui était désormais interdit de recevoir de la visite. Seuls les membres de sa famille seraient désormais autorisés à lui rendre visite.

2463. Il est allégué que ces mesures seraient liées aux activités de plaidoyer de MM. Chammari, Abbou et Ayachi pour la tenue d'élections municipales transparentes le 9 mai 2010.

2464. Des craintes ont été exprimées quant au fait que la surveillance des déplacements et des domiciles de MM. Chammari, Abbou et Hammami et l'interdiction imposée à M. Chammari de recevoir des visiteurs soient liées à leurs activités non violentes de promotion et de protection des droits de l'homme.

Réponses du Gouvernement aux communications envoyées

2465. Le 22 juin 2009, le Gouvernement a répondu à une lettre d'allégations envoyée le 22 août 2008 par le Rapporteur spécial et la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme concernant la situation de Mme Sihem Bensedrine. Le Gouvernement précise que Mme Bensedrine a déposé, en date du 2 septembre 2008, une plainte au parquet du tribunal de première instance de Tunis faisant état d'allégations relatives à une agression qu'elle aurait subie le 19 août 2008, alors qu'elle embarquait sur le vol Tunis-Vienne.

2466. Afin de faire toute la lumière sur cette affaire, le Procureur de la République a cité Mme Bensedrine à comparaître afin de recueillir ses déclarations et en dresser procès-verbal. A la suite de son audition par le Substitut du Procureur de la République le 9 octobre 2008, le Procureur de la République a décidé la poursuite de l'enquête dans le but d'identifier les agents de l'ordre visés par la plaignante, recueillir leurs déclarations et procéder à tous les actes nécessaires à la manifestation de la vérité. Le substitut du Procureur de la République chargé de l'enquête a recueilli les déclarations de l'agent de police des frontières qui avait contrôlé le passeport de Mme Bensedrine à la date des faits allégués, d'un autre agent de police en exercice à la date des faits à la zone de départ de l'aéroport de Tunis-Carthage et de l'agent des douanes responsable du point de contrôle douanier à l'aéroport et visé par la plainte. Les trois agents ont affirmé que la plaignante avait accompli toutes les formalités de départ et avait passé le contrôle douanier pour gagner les salles d'embarquement sans qu'ils ne constatent le moindre incident. Mme Bensedrine était cependant retournée quelque temps après au point de contrôle douanier pour faire part de son intention d'annuler son voyage en raison de circonstances familiales imprévues. L'agent des douanes l'avait alors accompagnée au point de contrôle de police des frontières où elle avait pu accomplir les formalités d'annulation de son départ sans aucun incident.

2467. Au vu de ses éléments, le Procureur de la République a décidé du classement sans suite de la plainte de Mme Bensedrine dès lors que l'enquête judiciaire n'a abouti à aucun élément corroborant les allégations de la plaignante. Il convient de rappeler à cet égard que l'article 30 du Code de procédure pénale dispose que le « Procureur de la République apprécie la suite à donner

aux plaintes et dénonciations qu'il reçoit ou qui lui sont transmises ». La décision de classement sans suite trouve son fondement dans les principales justifications suivantes :

- Informe de investigación rendido por la Policía Ministerial.
- Allégations contredites par les témoignages : le classement sans suite de la plainte de Mme Bensedrine s'imposait dès lors que ses allégations ont été démenties par l'agent des douanes responsable du contrôle douanier ainsi que par les témoins entendus dans l'enquête.
- Carences constatées dans l'attitude de la plaignante : Mme Bensedrine n'avait présenté aucun certificat médical susceptible d'établir qu'elle avait effectivement été victime d'une agression physique ou morale. En s'abstenant de se soumettre à examen médical, la plaignante a démontré le manque de sérieux de sa plainte.
- Contradictions dans les allégations de la plaignante : le caractère infondé de la plainte découle également de la façon avec laquelle Mme Bensedrine a présenté les faits. Elle a en effet prétendu, lors de son audition, qu'elle avait par deux fois refusé d'obtempérer à l'invitation des autorités. Un tel refus, si la version de la plaignante était vraie, aurait fait l'objet d'un procès-verbal et des poursuites pénales auraient été exercées contre elle pour refus d'obtempérer aux contrôles douaniers conformément à l'article 51 du Code des douanes qui incrimine toute opposition aux agents des douanes lors de l'exercice de leurs fonctions. La consultation des registres du Greffe du parquet de Tunis relève qu'aucune dénonciation de cet ordre n'avait été enregistrée, le 19 août 2008, à l'encontre de la plaignante. C'est donc un fait que Mme Bensedrine avait pu regagner normalement son domicile après l'annulation, à sa demande, de son visa de sortie.

2468. Ces considérations permettent de prouver que le report du voyage de l'intéressée, le 19 août 2008, n'était dû qu'à des considérations qui lui sont personnelles et n'avaient absolument rien à voir avec un quelconque refus de sa part de se soumettre au contrôle douanier.

2469. Il convient de signaler l'attitude agressive et querrelleuse de Mme Bensedrine qui ne cesse d'inventer toutes sortes d'histoires pour faire croire qu'elle est harcelée par les autorités de son pays et de rappeler dans ce cadre, les allégations de l'intéressée objet de l'appel urgent du 6 janvier 2009, dans lequel elle se prétendait victime d'une campagne de déstabilisation alors qu'il ne s'agissait, en réalité, que d'une querelle entre l'intéressée et l'un de ses anciens collaborateurs. Cet exemple ajouté aux allégations objet de la présente communication démontrent clairement que Mme Bensedrine ne recule devant aucune manœuvre dans le but de porter atteinte à la réputation de son pays et n'hésite pas à créer des histoires cousues de toutes pièces.

Observations

2470. Le Rapporteur spécial remercie le Gouvernement pour ses réponses, mais regrette, au moment de la finalisation du présent rapport, l'absence de réponse à certaines communications envoyées en 2010, 2009, 2008 et 2007. Il exhorte le Gouvernement à répondre au plus vite aux

crainces exprimées dans celles-ci, notamment en fournissant des informations précises sur les enquêtes menées afin de traduire en justice les auteurs des faits et les mesures de protection prises. Il considère les réponses à ses communications comme partie intégrante de la coopération des gouvernements avec son mandat.

Turkey

Letter of allegations

2471. On 27 August 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, and the Chairperson-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, sent a letter of allegations to the Government concerning **Mr. Camal Bektas**, President of Yakay-der, an association which assists relatives of disappeared persons. His brother is allegedly a victim of enforced disappearances.

2472. According to information received, on 11 August 2009, Mr. Bektas was reportedly sentenced to one year of imprisonment for “defaming the army’s reputation” and “spreading propaganda against the State” after he denounced the existence of mass graves in Turkey and accused the army of blocking access to several mass graves during a conference organised by Yakay-der in July 2008. He was also charged with a fine of 5.5 Turkish Lira (three euros) and is now ineligible to run for electoral and administrative offices in Turkey. Reports claim that he cannot appeal the sentence. He is now reportedly abroad, but fears for his physical integrity upon his return to Turkey where he will be imprisoned.

2473. Moreover, a criminal investigation on Mr. Bektas was reportedly opened in June 2009 in relation to statements he made between February and June 2009, asking for the opening of a mass grave located in Van, a military area in Eastern Turkey. Should he be prosecuted, he allegedly risks being sentenced to a prison term of four to five years.

2474. Concern was expressed that Mr. Bektas has been sentenced to imprisonment for exercising his right to freedom of opinion and expression in connection with his peaceful and legitimate activities in defense of human rights.

Response from the Government

2475. In a letter dated 22 December 2009, the Government of Turkey responded to the communication sent on 27 August 2009. The Government forwarded the judgment dated 9 June 2009 of the 5th Criminal Court of Diyarbakir concerning the sentencing of Mr. Cemal Bektas, who was condemned to 10 months of imprisonment for having carried out propaganda on behalf of a terrorist organization. The Prosecution alleged that Mr. Cemal Bektas, President of the Association of Mutual Aid and Solidarity with the Relatives of the Disappeared, participated at a meeting on 8 June 2009, titled “The Disappeared and the Reality in Turkey”, where he committed the offense of propagating for a terrorist organization. The Prosecution requested that Mr. Bektas be sanctioned according to the provisions of Article 7/2 of the Law on Countering Terrorism and Article 53 of the Penal Code.

2476. The Court found that the statement of Mr. Cemal Bektas amounted to propaganda on behalf of a terrorist organization, the PKK, the aim of which is to split a part of the territory of the Republic of Turkey in order to establish a Kurdish state based on Marxist-Leninist principles. The PKK is an armed terrorist group which has attempted, since its creation, to assert its authority in the region and throughout the country by blocking roads, extorting money and killing vulnerable persons in the villages it attacks. In its judgement, which is not final yet, the Court condemned Mr. Cemal Bektas to one year of imprisonment based on Article 7/2 of the Law on Countering Terrorism which was amended by Article 6 of the Law No. 5532. The Court also decided to reduce the sentence of Mr. Bektas by 1/6th in accordance with Article 62 of the Penal Code, taking into account his tacit acceptance, his good behaviour and conduct during the trial and sentenced the defendant to ten months in prison.

Urgent appeal

2477. On 7 January 2010, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding Mr. **Muharrem Erbey** and the **Human Rights Association (Insan Haklari Dernegi – IHD)**. Mr. Erbey is a human rights lawyer, the General Vice-Chairperson of IHD and the Chairperson of IHD's Branch in Diyarbakir Province. The Human Rights Association (**Insan Haklari Dernegi – IHD**) works on, *inter alia*, the right to life and enforced disappearances.

2478. According to the information received, on 24 December 2009, Mr. Erbey, along with several Kurdish opposition members, journalists and civil society activists, was arrested by police officers during an operation launched by the anti-terrorism branch of the police in several provinces following an order issued by the Diyarbakir Chief Public Prosecution Office. On the same day, the premises of the IHD in Diyarbakir were allegedly raided by the police. The police officers, who initially did not have a warrant, finally obtained a court order to search the offices. During the raid, computers and documents including archives on cases of enforced disappearance and torture and other human rights violations were allegedly confiscated.

2479. Mr. Erbey was remanded in custody in the Diyarbakir D Type Prison. On 26 December 2009, he was allegedly accused of being the international affairs representative of the illegal armed group "the Community of Kurdish Society" (Koma Civaken Kurdistan – KCK) and consequently charged with "being a member of an illegal organization" pursuant to Articles 314 and 220/6 of the Criminal Code.

2480. It is alleged that the arrest and the charges against Mr. Erbey may be linked to his participation in the preparations of a workshop held in Diyarbakir in September 2009 to debate constitutional amendments relating to minorities' rights, his statement on the rights of the Kurdish minority before the Belgian, Swedish and English parliaments and his participation in the "Kurdish Film Festival" in Italy in 2009.

2481. Concern was expressed that the arrest of Mr. Erbey and the raid of the IHD's premises might be directly related to their legitimate work in defense of human rights. In this context, we would like to recall the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on his country visit to

Turkey (A/HRC/4/26/Add.2), where he stated that “non-governmental organizations and activists have also often been investigated and indicted on charges related to their work on behalf of ethnic groups. Both individuals and organizations continue to face multiple prosecutions under charges which may clearly infringe human rights standards.” (para. 29).

Observations

2482. The Special Rapporteur wishes to thank the Government for its detailed response, but regrets that at the time the present report was finalized, no response had been transmitted to his communication of 7 January 2010. He considers response to his communications an important part of the cooperation of Governments with his mandate, and urges the Government to respond to the concerns raised by him.

Uganda

Urgent appeal

2483. On 30 April 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding the physical attacks against **Mr. David Kato** and **Mr. Julian “Pepe” Onziema**, both members of Sexual Minorities Uganda (SMUG) and the media campaign against human rights defenders who work with lesbian, gay, bisexual, transgender and intersex (LGBTI) human rights organisations, including the Chairperson of SMUG, **Mr. Frank Mugisha**. SMUG is a coalition of Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) human rights organizations that advocates on behalf of Uganda’s LGBTI people and on HIV/AIDS issues in Uganda. The Special Rapporteur and the then Special Representative on the protection of human rights defenders previously sent communications concerning SMUG on 12 August 2008 and 30 November 2007 respectively.

2484. According to the information received, on 19 April 2009, the newspaper Sunday Pepper published an article, self-described as a ‘killer dossier’, listing the names of several human rights defenders and other LGBTI people. The article contained pictures, names, physical descriptions, details about their profession and residence, and negative stereotyping and accusations of “spreading the gay and lesbian vice in schools”. As it had announced, the Sunday Pepper published a follow up report on 26 April containing new names of LGBTI people as well as pictures of SMUG members including the Chairperson of SMUG, **Mr. Frank Mugisha**.

2485. On 23 April, the Family Life Network (FLN) presented a public petition to the Ugandan Parliament requesting new laws providing harsher punishment for homosexuality. The FLN has taken the lead in organising an anti-LGBT campaign and fomenting anti-LGBTI sentiments. This campaign, which TV, radio and printed media echoed, is fostering a climate of strong hostility and is encouraging attacks against LGBTI defenders.

2486. On 12 April, **Mr. David Kato** and **Mr. Julian “Pepe” Onziema**, whose names and pictures were published on several occasions in the media, were physically attacked in two separate incidents in Kampala.

2487. According to reports received, the Ugandan authorities are allegedly contributing to the climate of hostility against LGBTI defenders through repeated defamatory statements both to the media and Parliament. On 2 April, the Government owned newspaper New Vision reported comments made by Minister of Ethics and Integrity, James Nsaba Buturo, who stated that defenders working on sexual orientation and gender identity, being self-confessed LGBTI people, should be investigated and punished.

2488. LGBTI defenders have reportedly been the subject of an increased level of harassment and threats in recent weeks including death threats. It is feared that such a smear campaign will further incite hatred and violence against human rights defenders and members of the LGBTI community.

2489. Concern was expressed that the physical attacks on Mr. David Kato and Mr. Julian “Pepe” Onziema and the media harassment of Mr. Frank Mugisha and other members of the LGBTI community might be related to their peaceful activities in defence of LGBTI rights.

Urgent appeal

2490. On 13 May 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal regarding the death threats against Ms. **Eugenie Mihigo Vumiliya** and Mr. **Aaron Kamondo Bemba**. Ms. Eugenie Mihigo Vumiliya is the Executive Director of The Women for Dignity and Development Foundation (WODIDEF), whose mission is to better refugee women and girls lives through international human rights standards, advocating on their behalf. Mr. Aaron Kamondo Bemba is the Chairperson and Chief of Research for WODIDEF, and is originally from the Democratic Republic of the Congo. In Uganda, since October 2008, WODIDEF has undertaken activities and research on sexual and gender-based violence against refugee women. WODIDEF recently submitted a report to the African Commission for Human and Peoples Rights, which called on the Government of Uganda to address the issues raised in the presentation of its third periodic report.

2491. According to the information received, on 10 April 2009, Mr. Kamondo Bemba was reportedly denied access to the confidential email of WODIDEF, despite only he and Ms. Mihigo Vumiliya having access. Later that day, he received a call from an unidentified man who asked about his whereabouts. When Mr. Kamondo Bemba spoke in French, the man hung up. He received two further calls and, fearing for his safety, did not answer, and decided to change his telephone number. When WODIDEF staff members called the number from which Mr. Kamondo Bemba received the anonymous calls, a male voice allegedly announced that that number belonged to the Security Unit located in Bukoto.

2492. On 14 April, Ms. Mihigo Vumiliya allegedly received an anonymous call threatening her for passing false information to the international community that criticizes the Government of Uganda and its criminal justice system. She was told she was under security watch, and that she would not escape.

2493. On 15 April, Ms. Mihigo Vumiliya reportedly sensed being followed while returning to her home from the premises of the Refugee Law Project where she works. She noticed three men that she had seen earlier that day outside the Refugee Law Project at Makerere University. She

took evasive action but eventually returned to the office of the Refugee Law Project as the men continued to follow her. Fearing that she would be followed home once more, she spent the night in hiding in another home.

2494. On 20 April, members of WODIDEF allegedly discovered that their office had been broken into, and two computers had been stolen. These computers are said to have contained confidential information concerning the situation of refugee women in Uganda, information used in WODIDEF reports to the international community.

2495. On 3 May, Mr. Kamondo Bemba received an anonymous call on his new phone number. A male voice reportedly told him to return to his country and warned him that for his security he should stop carrying out human rights activities in Uganda. The male voice then issued a death threat.

2496. On 8 May, Mr. Kamondo Bemba received another anonymous phone call, reiterating the threats expressed earlier.

2497. Ms. Eugenie Mihigo Vumiliya and Mr. Aaron Kamondo Bemba are reported to be currently in hiding out of fear for their safety.

2498. Concern was expressed regarding the physical and psychological integrity of Ms. Eugenie Mihigo Vumiliya and Mr. Aaron Kamondo Bemba. Further concern was expressed that the acts of harassment and intimidation against the aforementioned persons might be related to their activities defending human rights, in particular their publication of information concerning the rights of refugees in Uganda.

Urgent appeal

2499. On 3 June 2009, the Special Rapporteur, together with the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal regarding the enforced disappearance of Mr. **Aaron Kamondo Bemba**. Mr. Aaron Kamondo Bemba is the Chairperson and Chief of Research for The Women for Dignity and Development Foundation (WODIDEF), and is originally from the Democratic Republic of the Congo. The mission of WODIDEF is to better refugee women and girls lives through international human rights standards, advocating on their behalf. According to the new information received:

2500. On 31 May 2009, at approximately 10:00 pm, three unidentified men wearing civilian clothing and carrying guns entered the house where Mr. Aaron Kamondo Bemba was staying with his two brothers. The men reportedly pointed their guns at Mr. Bemba's head and ordered him to leave his home, threatening to shoot him if he made any noise. The three men allegedly said nothing that would indicate their motive for abducting Mr. Bemba. The men then took Mr. Bemba to an unknown place and his whereabouts remain unknown. On 1 June 2009, Mr Bemba's abduction was reported to the local police who are reported to be currently investigating this case.

2501. Concern was expressed for the physical and psychological integrity of Mr. Aaron Kamondo Bemba. Further concern was expressed that the abduction of Mr. Bemba might be linked to the previous threats received by Mr. Bemba and that these acts of intimidation may be related to his activities defending human rights, in particular their publication of information concerning the rights of refugees in Uganda.

Letter of allegations

2502. On 22 September 2009, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent a letter of allegations to the Government regarding the **death of over twenty persons, the arrest of over 663 persons, the closure of four radio stations, the suspension of radio and television programmes, and the abduction and alleged ill-treatment of Mr. Robert Kalundi Serumaga**, talk-show host on Radio One, in connection with the two-day protests in Buganda.

2503. According to information received, on 10 and 11 September 2009, violence erupted in Kampala, during which at least twenty-one persons died and approximately a hundred persons were injured. The violence reportedly followed tensions caused by the planned celebrations of National Youth Day in the eastern district of Kayunga on 12 September, where the king of Buganda, Ronald Musenda Mutebi II, was to make a formal presentation. On 10 September, a delegation of Baganda leadership attempted to visit the area in anticipation of the king's visit, but was reportedly stopped by the police from entering the district, where the people of Banyala ethnicity reject the king's authority. Reports claim that the king's supporters, mainly youth from the Baganda ethnic group, felt they were being prevented from seeing the king, which allegedly sparked the protests. In response, police and military responded with tear gas and live ammunition, while some rioters blocked roads, lit fires and threw rocks. While it remained to be confirmed, many of the deaths and injuries were allegedly caused by stray live bullets.

2504. Protesters and onlookers were also allegedly severely beaten, including an incident whereby at least 30 people were assembled on a sidewalk, and the police forced men to remove their shirts. A group of men in civilian clothes, standing alongside the uniformed police, allegedly beat them with large sticks.

2505. On 10 and 11 September, the Uganda Broadcasting Council, a government body responsible for monitoring broadcasting services in the country, reportedly switched off the broadcasting signals of four radio stations (Central Broadcasting Service, Radio Two, Radio Sapienta, and Ssuubi FM), based on allegations of inciting the public and escalating the protests. Other radio and television programmes such as the Face of the Press on Radio Simba and Kibazo on Friday on Wavah Broadcasting Station (WBS) had also been ordered off the air or suspended indefinitely.

2506. The Kibazo on Friday programme was suspended indefinitely following the appearance on the show of Mr. Robert Kalundi Segumaga, talk-show host of "Spectrum" on Radio One. During the show on 11 September, he reportedly criticised President Museveni. At around 11:00 p.m. after his appearance on the show, Mr. Segumaga was abducted by men in civilian clothes outside the WBS studio. He was forced into an unmarked car and was allegedly beaten, choked and had his eyes gouged during transport. He was taken to a place of detention in Kirela, a

neighbourhood of Kampala, where at least 23 others who had also been arrested during the protests were allegedly being held. On 12 September, he was transferred to the Central Police Station in Kampala, where he was allegedly interrogated about the content of the talk show. He reportedly spent two nights at a hospital to receive treatment for his injuries. On 15 September, he was charged with six counts of sedition and released on bail. According to police reports, at least 663 persons were arrested during the two days, and most remain in custody to face trial.

2507. Concern was expressed that the deaths and injuries may have resulted from excessive and indiscriminate use of force. Further concern was expressed that the abduction, alleged ill-treatment and charges against Mr. Segumaga, the closure of radio stations, and the suspension of radio and television programmes represent an attempt to stifle the right to freedom of opinion and expression in Uganda. In addition, concern was expressed regarding the psychological and physical integrity of over 663 persons who remain in detention.

Letter of allegations

2508. On 23 December 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent a letter of allegations to the Government concerning a legislative bill pending before the Ugandan legislature, Bill N° 18 of 2009.

2509. According to the information received, the Parliament of Uganda is considering Bill No 18 (also known as the Anti-homosexuality Bill) tabled before it on 15 October 2009. The proposed bill would allegedly increase penalties for homosexual conduct and criminalize many related activities. Consensual homosexual conduct is already a criminal offence under article 145 sub a) of the criminal code, which penalizes “carnal knowledge of any person against the order of nature”. However, Bill N° 8 would purportedly expand the reach of this existing provision by including “any person who touches another person with the intention of committing an act of homosexuality”. It was also noted that the bill also punishes ‘aggravated homosexuality’, including activity by ‘serial offenders’ or those who are living with HIV, with the death penalty.

2510. Furthermore, the Bill punishes any form of ‘promotion of homosexuality’ with imprisonment of five to seven years, which allegedly would criminalize the work of civil society actors and human rights defenders addressing issues of sexual orientation or gender identity. The Bill specifies that this includes anyone who publishes or disseminates ‘homosexual materials’, ‘funds or sponsors homosexuality and related activities’, ‘uses electronic devices which include internet, films and mobile phone’ or ‘who acts as an accomplice or attempts to promote or in any way abets homosexuality and related practices’. The Bill also criminalizes failure to report any offences within its scope, compelling citizens to report to the authorities anyone whom they suspect of being homosexual.

2511. According to information received, the Bill will prohibit any kind of community or political organizing around non-hetero-normative sexuality. It will lend itself to misapplication and abuse, and allegedly, implicitly encourages the persecution of sexual minorities by private actors. HIV prevention activities in Uganda, which rely on an ability to speak frankly about sexuality and health and to provide condoms and other safer sex materials, will be compromised.

Women, sex workers, people living with HIV, and other marginalized groups may also find their activities tracked and criminalized through this Bill.

Observations

2512. The Special Rapporteur regrets that at the time of finalizing the present report, the Government had not transmitted a single reply to his communications. He considers response to his communications an important part of the cooperation of Governments with her mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken to prosecute the perpetrators as well as protective measures taken.

Ukraine

Urgent appeal

2513. On 11 August 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding the attempted assassination of Mr. **Vitaly Salnikov and the ongoing intimidation and threats against him and his family**. Mr. Salnikov is the principal of the government subsidized school, Children's Sports School N7, in Kiev. He has been actively involved in the protection of children's rights, protesting against alleged attempts by local politicians and businessmen to sell or use the recreational area on the Truhkanov Island in the centre of Kiev, which is the only area left for children from low-income families to play.

2514. According to information received, on 23 July 2009, Mr. Salnikov was seriously injured when a bomb exploded as he opened the front door of his home in Kiev. He was subsequently rushed to hospital in a critical condition where he continues to undergo multiple operations.

2515. Following the assassination attempt, the police warned that they cannot guarantee the safety of the Salnikov family reportedly due to recent cuts in funding.

2516. The Salnikov family has been the subject of threats and intimidation for several years, to the point where Mr. Salnikov and his wife eventually decided to send their three children away for their protection. Although the threats were reported to the police, no action was taken by the authorities in relation to the matter. The local department of education has also repeatedly tried to discharge Mr. Salnikov from his position as principal of Children's Sports School N7.

2517. Concern was expressed that the attempted assassination of Mr. Salnikov and the ongoing intimidation and threats against him and his family are directly related to his peaceful and legitimate activities in defense of human rights, in particular his work to protect the recreational area for children from low in-come families, on Truhkanov Island.

Response form the Government

2518. In a letter dated 8 September 2009, the Government responded to the communication sent on 11 August 2009 as follows.

2519. On 23 July 2009, an unknown person placed an explosive device next to Apartment 71, 27 Donets Street, Kiev. The explosive device was activated at 9.10 a.m., as a result of which Mr. Salnikov received injuries in the form of “multiple shrapnel wounds to his extremities, a first-degree open fracture of the right heel bone and a first-degree open fracture of the left metatarsal”.

2520. The same day, the investigation department of the Solomensk district branch of the Ministry of Internal Affairs of Ukraine in Kiev initiated criminal proceedings on the basis of evidence of an offence under article 15, paragraph 2 (Attempted offence), and article 115, paragraph 2 (5) (Premeditated killing in a manner calculated to cause multiple deaths), of the Criminal Code of Ukraine.

2521. The case was assigned to the investigation department of the Kiev branch of the Ministry of Internal Affairs. The investigation of the criminal case also includes investigations into threats against Mr. Salnikov made on 19 November 2008.

2522. The pre-trial investigation continues and essential inquiries are under way to establish the identity of the perpetrators. The progress of the investigation is being supervised by the main investigation department of the Ministry of Internal Affairs.

2523. It should be noted that, in accordance with article 121 of the Code of Criminal Procedure (Inadmissibility of divulging details of a pre-trial investigation), we are unable to provide more detailed information.

2524. On 23 July 2009, in the course of examination, Ms. S.I. Salnikova submitted a written request to the investigator that her husband, Mr. Salnikov, should be provided with security. This was granted by the investigator the same day. From 24 July 2009, security for Mr. Salnikov was provided by members of the special Grifon militia unit. Ms. Salnikova refused security measures for herself or her children.

2525. The legal regulation of freedom of belief and freedom of expression as aspects of the life of society is contained primarily in the Constitution of Ukraine, the Information Act, the Printed Mass Media (Press) Act, the Television and Radio Act, the National Television and Broadcasting Council of Ukraine Act, the State Support of Mass Media and Social Protection of Journalists Act, the Coverage of Activities of Central and Local Government Bodies by Mass Media in Ukraine (Procedures) Act and the Information Agencies Act.

2526. Article 34 of the Constitution of Ukraine provides that everyone is guaranteed the right to freedom of thought and speech and to the free expression of his or her views and beliefs. Everyone has the right freely to collect, store, use or disseminate information orally, in writing, or in any other way of his or her choice.

2527. The exercise of these rights may be restricted by law in the interests of national security, territorial integrity or public order, with a view to preventing disorder or crime, protecting public health, defending the reputation or rights of others, preventing the publication of information received confidentially and supporting the authority and impartiality of justice.

2528. Article 15, paragraph 3, states that censorship is prohibited. Under article 9 of the Information Act, all Ukrainian citizens, legal persons and State bodies have the right to information. This entails the possibility freely to receive, use, disseminate and store the information that they need in order to exercise their rights, freedoms and lawful interests and to perform their tasks and functions. The exercise by citizens, legal persons or the State of the right to information must not infringe the public, political, economic, social, spiritual, environmental or other rights, freedoms and lawful interests of other citizens or the rights or interests of legal persons. Every citizen is guaranteed free access to information regarding him or her personally, except in cases provided for by the laws of Ukraine.

2529. Article 10 of the Act establishes guarantees of the right to information, which is based on: the obligation of State bodies and local or regional government bodies to provide information on their activities and decisions; the creation within State bodies of special information services or systems that are in a position to provide access to information according to the established procedure; free access by public relation bodies to statistical data, archives, libraries and museum holdings, the restriction on such access being dependent on the values involved and the special storage conditions required, which are determined by law; the development of a mechanism for the implementation of the right to information; the establishment of State supervision over the observance of legislation on information; and the establishment of responsibility for breaches of legislation on information.

2530. Under article 45 of the Act, the right to information is protected by law. The State guarantees all information stakeholders equal rights to and opportunities for access to information. No one may restrict a person's right to a choice of forms or sources of information, except in cases provided for by law. A legal person having the right to information may require the removal of any impediments to this right.

2531. Article 45–1 of the Act prohibits censorship whereby the media, journalists, editors, organizations responsible for a mass information outlet or its founder, proprietor, publisher or distributor are required to obtain prior clearance for the dissemination of information, except where required by the author of the information concerned or any other holder of copyright and/or related rights, or whereby a restriction or any other impediment is imposed, except in the form of a court injunction, on the reproduction or distribution of information by central or local government bodies or their officials.

2532. The Act prohibits any interference with the professional work of journalists in any way not provided for under Ukrainian law or by an agreement between the founder or proprietor and the staff of a media outlet. It also prohibits any attempt to control the content of information by the founder or proprietor of a media outlet or by central or local government bodies or their officials, in particular where the aim is to apply coercive measures to prevent or promote the dissemination of specific information, to suppress information of public importance, to prohibit the depiction of individuals or the dissemination of information about them or to prohibit criticism of central or local government bodies or their officials.

2533. The establishment of any State authority, institution or position of responsibility with the power to exercise control over the content of information disseminated by the media is prohibited.

2534. Article 2 of the Printed Mass Media (Press) Act states that freedom of speech and the free expression in print of one's opinions or beliefs are guaranteed under the Constitution of Ukraine and, according to the terms of the Act, connote the right of every citizen freely and independently to seek, receive, record, store, use or disseminate any information that is open under the access regime through the press. Any request for prior clearance of information or materials distributed by the press, or any ban on the distribution of information or materials by officials of State bodies, enterprises, institutions, organizations or civil associations shall be prohibited, except where the official in question is the author of the relevant information or the subject of the relevant interview.

2535. The State guarantees the economic independence of the press, provides economic support for press activities and takes action to prevent the abuse of a monopoly position on the market by the publishers and distributors of a printed product. Measures providing for economic support for the activities of the press, and the State bodies responsible for such support, are determined by the Cabinet of Ministers.

2536. Article 2 of the Information Agencies Act provides that information agencies have freedom of activity guaranteed under the Constitution and Ukrainian legislation. The censorship of information disseminated by information agencies is prohibited.

2537. It should be further noted that, in accordance with Presidential Decree No. 39, of 20 January 2006, on the plan of action for meeting the commitments and obligations arising out of Ukraine's membership of the Council of Europe and Presidential Decree No. 377, of 23 April 2008, on the decision of the National Security and Defence Council of Ukraine, of 21 March 2008, concerning urgent measures to ensure the information security of Ukraine, the Ministry of Justice has prepared a bill on the reform of print media under State or community ownership. The purpose of the bill is to reform the print media set up by central or local government bodies. It will help to establish a legal basis for the independent activity of the press, paying due regard to the provisions of Resolution 1466 (2005) of the Parliamentary Assembly of the Council of Europe, entitled "Honouring of obligations and commitments by Ukraine", of 5 October 2005. The bill aims to reduce the opportunities for manipulating public opinion and the personal opinions of Ukrainians through the press, to strengthen and improve legal guarantees of freedom of expression and to protect the press from control or monopolization by State bodies. The bill was submitted to the Cabinet of Ministers in a communication from the Ministry of Justice on 30 June 2009 and registered as No. 4302-1-4-09-21. The adoption of the bill will contribute to the establishment of an economically independent press and the creation of an independent environment for its activities. This will help to improve the quality of information provided to the people of Ukraine.

Observations

2538. The Special Rapporteur wishes to thank the Government for the detailed response provided for his communication of 11 August 2009.

United Arab Emirates

Letter of allegations

2539. On 13 January 2010, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations regarding the removal of **Mr. Mohamed al-Mansoori** from his post as legal advisor to a prominent governor. Mr. al-Mansoori is also a lawyer, human rights activist and President of the Independent Jurists' Association.

2540. Concerns regarding acts of harassment against Mr. Mohamed al-Mansoori, including detention, was previously expressed to the Government on 8 September 2006 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the independence of judges and lawyers, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and Special Representative of the Secretary-General on the situation of human rights defenders. The response received from the Government on 17 May 2007 was acknowledged, but the Special Rapporteurs regretted that a substantive response to the case of Mr. Mohamed al-Mansoori was yet to be received.

2541. According to new information received, on 20 December 2009, Mr. Mohamed al-Mansoori appeared in a television interview regarding the situation of human rights in the Gulf region in 2009 which was broadcast on "Al Hiwar" television channel. During the interview, Mr. Mohamed al-Mansoori allegedly criticized the situation of human rights in the United Arab Emirates. In particular, he expressed his opinion that the situation of freedom of expression in the United Arab Emirates is deteriorating with censorship being applied to newspapers, and also criticized a draft media law which is currently pending final ratification by the President of the United Arab Emirates. Mr. al-Mansoori also commented that torture is allegedly being practiced by some security agencies, and that human rights defenders are at risk of losing their jobs or being "terminated" because of their work.

2542. Concern was expressed that the recent decision to remove Mr. al-Mansoori from his post is directly related to his non-violent exercise of his right to freedom of opinion and expression.

Observations

2543. The Special Rapporteur regrets that at the time of finalizing the present report, the Government had not transmitted any substantive reply to communications sent regarding the case of Mr. Mohamed al-Mansoori. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him.

United Republic of Tanzania

Letter of allegations

2544. On 13 January 2010, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations to the Government regarding physical attacks against **Mr. Frederick Katulanda**, journalist working for Mwananchi Communications in the Mwanza region.

2545. According to information received, Mr. Frederick Katulanda has been investigating a story regarding funds that have allegedly been stolen from a Government institution's account held at a commercial bank. On 21 December 2009 at around 7:00 p.m., Mr. Frederick Katulanda managed to obtain a bank statement in the course of his investigation.

2546. On 22 December 2009 at around 12:30 a.m., a group of unidentified individuals forced their way into his home where he was sleeping. The individuals were reportedly armed with a machete, an axe and an iron bar, and hit Mr. Frederick Katulanda, as well as his brother, Mr. Tulusubya Katulanda, who was also sleeping at his home. The individuals took documents from Mr. Frederick Katalunda's home, including the bank statement he had obtained, a wallet and a mobile phone before leaving the house.

2547. Mr. Frederick Katulanda was hit with an axe on his right hand and on the legs. He was reportedly taken to the Butimba Hospital in the Misungwi district, where he received stitches and was discharged.

2548. The head of the Mwanza regional police, Mr. Jamal Rwanbow, has reportedly confirmed that the incident took place and has stated that police detectives are investigating the matter.

2549. Concern was expressed that the attack against Mr. Frederick Katulanda is linked to his work as a journalist to expose a possible case of corruption and represents an attempt to stifle independent reporting in Uganda.

Observations

2550. The Special Rapporteur regrets that at the time of finalizing the present report, the Government had not transmitted a reply to the communication above regarding the case of Mr. Frederick Katulanda. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

Uzbekistan

Urgent appeal

2551. On 23 February 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding Mr. **E. M.**, currently held at Prison n. 64/21, Bekabad city, Tashkent region. He was the subject of a previous communication (A/HRC/7/3/Add.1, para. 259), and the Working Group on Arbitrary Detention had found his detention to be arbitrary (Opinion No.14/2008 of 9 May 2008, see A/HRC/10/21/Add.1).

2552. According to new allegations received, following the Opinion of the Working Group on Arbitrary Detention, on 26 July 2008, Mr. E. M. had been threatened by two officers from the National Security Service (SNB) that, if he or his family did not withdraw their petitions or continued to make complaints to international human rights mechanisms or to spread news about

the above decision, they would face reprisals. Following this incident, Mr. E.M. was put under “special control”, i.e. not allowed to go to work, denied medical treatment and his movement within the territory of the penitentiary institution was restricted.

2553. In addition, the mandate-holders noted that Mr. E. M.’s health is deteriorating. The left side of his body is now partly paralyzed. He further suffers from a persistent cough. Reportedly he has also been beaten by Lieutenant Halimov and Lieutenant Karabayev in reaction to the announcement by Mr. E.M. that he would go on a hunger-strike to protest the refusal to send his complaints to the General Prosecutor’s Office and Supreme Court. Allegedly, he has been transferred to the medical unit of the prison.

2554. Grave concern was expressed at the reports of threats of reprisals made against Mr. E.M. following the issuance of Opinion No. 14/2008 by the Working Group on Arbitrary Detention. In this context, the mandate-holders recalled resolution 2005/9, whereby the Commission on Human Rights urged Governments to refrain from all acts of intimidation or reprisal against those who avail or have availed themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms and all those who have provided legal assistance to them for this purpose. In this recommendation, the Commission requested representatives of United Nations Human Rights Bodies to continue to take urgent steps to help prevent the occurrence of intimidation and reprisals and to include in their respective reports allegations of intimidation or reprisal, as well as an account of action taken by them in this regard.

Urgent appeal

2555. On 22 April 2009, the Special Rapporteur, together with the Special Rapporteur on freedom of religion or belief, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding **Z. A. Z.**, aged 39.

2556. According to the allegations received, Mr. Z. A. Z. was sentenced to a prison term of nine years on 30 August 1999 under article 159 of the Criminal Code (“Attempt at changing the constitutional order of the Republic of Uzbekistan) on the basis of two Hisb-ut-Tahrir leaflets the police found when searching his house. He was first detained in KIN 64/61 in Karshi, then transferred to 64/49 and 64/25 in Bukhara. Between 2003 and 2008, he was held in KIN 64/3 in Tavaksay, Tashkent Oblast. Few days before his the sentence was to come to an end, he was brought before court for allegedly disobeying orders of the penitentiary administration, sentenced to an additional term of two and a half years and taken to the strict regime colony KIN 64/51 in Koson, Bukhara Oblast.

2557. In March 2009, to punish him for praying, Mr. Z. A. Z., was confined to a punishment cell and subjected to severe beatings. As a result, he suffers from fractures of one of his hands and of his collarbones.

Response from the Government

2558. By letter dated 5 June 2009, the Government indicated that Mr. Z., is an Uzbek born in 1970 in the Chinaz district of Tashkent province, with no previous convictions and unemployed prior to arrest. The Chinaz district criminal court sentenced him to nine years deprivation of

liberty on 26 November 1999 for repeated breach of the constitutional order by or in the interests of an organized group, preparation or distribution of material posing at threat to public safety and public order previous concert or by a group of persons, and unlawful organization or resumption of and active participation in the activities of illegal voluntary associations or religious organizations.

2559. As Mr. Z. was liable to disciplinary measures on several occasions while serving his sentence in detention facility UY 64/3 for violations of established detention procedures and failure to comply with the lawful requirements of the penal institution administration, he was sentenced by the Bostanlyk district criminal court on 22 August 2008 to three years, one month and 17 days deprivation of liberty and is serving his sentence in detention facility UY 64/51.

2560. The penal administration describes him in unfavourable terms. He is registered with the clinic on account of his chronic gastritis. His health is satisfactory and he is capable of working.

2561. An investigation into a complaint filed by Ms. U. Z. did not support her claims that Mr. Z. had been tortured. The penal institution medical service workers and other fellow prisoners in the colony indicated that no unlawful acts have been committed against Mr. Z. Medical examiners found no indications or traces of bodily harm while he was undergoing outpatient or inpatient treatment.

2562. Mr. Z. was examined on 4 September 2008 and diagnosed with chronic gastritis. He was given the necessary medical assistance based on this diagnosis and received inpatient treatment between 17 and 25 September 2008 and 22 and 30 April 2009. Mr. Z. did not complain about bodily harm and his overall health is now satisfactory. Moreover, Mr. Z. was not subjected to any disciplinary action or locked up for violating internal procedures in March 2009.

2563. The penal institution administration did not bring any physical or moral pressure on Mr. Z. while he was serving his sentence and the Ministry of Internal Affairs did not receive any complaint from Mr. Z. concerning torture.

Urgent appeal

2564. On 28 April 2009, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal to the Government regarding Ms **Elena Urlaeva**, a member of the Human Rights Alliance of Uzbekistan.

2565. Ms Urlaeva was the subject of an urgent appeal sent by the then Special Representative of the Secretary-General on the situation of human rights defenders on 25 January 2007; an urgent appeal sent by the Special Rapporteur on violence against women, its causes and consequences and the then Special Representative of the Secretary-General on the situation of human rights defenders on 4 April 2006; and an urgent appeal sent by the then Special Representative of the Secretary General on the situation of human rights defenders, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges

and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture on 6 September 2005.

2566. According to the information received, on 15 April 2009, at approximately 9:00 am, Ms Urlaeva was assaulted and threatened by two unknown young men dressed in black and wearing sunglasses outside her home in Tashkent, as she was leaving her home with her son. The two men kicked her and punched her in the head and chest, and cut her leather jacket with knives. Her five-year old son witnessed the attack. Ms Urlaeva was diagnosed with contusions on her head and chest, and high blood pressure. She filed a complaint with the police, but the investigation has not yet yielded any results.

2567. On 22 April 2009, at approximately 6:30 pm, Mukhammad Mashurov, the five-year old son of Ms Urlaeva was assaulted near their apartment building by an unknown young man, who hit him with a baton on the head. He was later diagnosed with a concussion. However doctors at the N14 children's hospital in Tashkent refused to note in his medical card that the concussion was a result of an attack. Ms Urlaeva reported the incident at the local police station, but the police refused to initiate an investigation, arguing that a child's testimony was not sufficient evidence. Ms Elena Urlaeva later received a phone call from an unknown man, threatening her with an "even worse attack".

2568. Concern was expressed that the attacks on, and threats against, Ms Elena Urlaeva and her son are solely connected to her legitimate activities in defence of human rights. Further concern was expressed regarding the physical and psychological integrity of Ms Elena Urlaeva and her family.

Response from the Government

2569. In a letter dated 5 June 2009, the Government responded to the communication sent on 28 April 2009 as follows. On 17 April 2009, Ms. Elena Mikhailovna Urlaeva lodged information with the Mirzo Ulugbek District Internal Affairs Authority that, at about 9 a.m. on 15 April 2009, she was attacked near her house by two unknown persons, one of whom had a knife. They harassed her and demanded that she should leave Uzbekistan. Ms. Urlaeva requested that appropriate measures should be taken with regard to these persons.

2570. Ms. Urlaeva's statement was registered by the duty office of the Mirzo Ulugbek District Internal Affairs Authority under No. 1741, register F-2. In an explanatory note, Ms. Urlaeva stated that Mr. A. Sandaliev and his wife Feruza had threatened her over the telephone. She also stated that these persons had earlier asked her to help with the release of their friend Aleksandr Yunusov, who had been tried on a criminal charge.

2571. On the basis of the information provided, Inspector Y. Rakhmanov of the Crime Protection Unit of the Mirzo Ulugbek District Internal Affairs Authority carried out a pre investigative inquiry, in which it was established that the address in question was that of Mr. Denis Shekirov, born 1979, who, according to the representative of the house tenants' committee, Ms. M.G. Gulyamova, had been in the Russian Federation at the time.

2572. A check of the Tashkent Municipal Registry showed that Ali and Feruza Sandaliev did not have a residence permit and that no information on them was held at all. It was also established that, from 2001 to the present, Ms. Urlaeva has been registered with Tashkent Neuropsychological Clinic No. 2 with a diagnosis of chronic paranoid schizophrenia and, by a decision of the Mirabad Interdistrict Civil Court of 24 August 2006, she had been declared incapable.

2573. On the basis of the above and in accordance with articles 83, paragraph 1, and 333 of the Code of Criminal Procedure, it was decided on 23 April 2009 that there would be no prosecution in this case. The Decision and the evidence in the investigation were considered under the review procedure by the Procurator's Office of the Mirzo Ulugbek District and on 16 May 2009, the Decision was rescinded as being premature. The case was returned to the District Internal Affairs Authority for further investigation.

2574. Ms. Urlaeva also went to the Mirzo Ulugbek Internal Affairs Authority on 22 April 2009, claiming that, at about 7 p.m. the same day, unknown persons had beaten her small son, Mukhammad Nakib-ogli Mashurov, born 2004, with a stick and requested that appropriate measures should be taken against the perpetrators.

2575. An officer of the Investigative Unit of the District Internal Affairs Authority, Mr. S.B. Tursunov, carried out a preliminary investigation into the matter, which established that, while walking past School No. 211 on 22 April 2009, Mukhammad Nakib-ogli Mashurov insulted three boys after which the persons in question threw a stick in his direction and the stick hit M.N. Mashurov on the head.

2576. The uncle of M.N. Mashurov, Mr. V.A. Mashurov, wrote a counter-statement on the matter on 24 April 2009, in which he stated that his nephew's physical injuries had been the result of a game. The family therefore made no complaint and did not wish a forensic medical examination to be carried out.

2577. On the basis of the above and in accordance with articles 83, paragraph 2, and 333 of the Code of Criminal Procedure, it was formally decided on 30 April 2009 not to institute criminal proceedings. This decision was considered under the review procedure and subsequently rescinded. On 18 May 2009, the evidence was turned over for further investigation to the Mirzo Ulugbek District Internal Affairs Authority. The person who originally lodged the information will be informed of the result of the additional investigation.

Letter of allegations

2578. On 4 August 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations to the Government regarding the sentencing of Mr. **Dilmurod Saidov**. Mr. Saidov is a journalist and member of the Tashkent regional division of the human rights organisation Ezgulik. He has published articles denouncing cases of abuse of power and corruption.

2579. According to information received, on 30 July 2009, the Taylasky District Court in Samarkand sentenced Mr. Saidov to twelve and a half years in prison. Mr. Saidov was arrested

on 22 February 2009 on charges of extortion and forgery under Articles 16 and 228 of the Criminal Code. His trial began in June 2009. Neither his family nor his lawyers were permitted to enter the court room for sentencing.

2580. Throughout the entire proceedings Mr. Saidov maintained his innocence. Allegedly, no solid evidence was presented during the trial and Mr. Saidov was found guilty based on witness testimony alone. Furthermore, during the trial, some witnesses reportedly withdrew their testimony while others admitted that they had been pressurized by the special services.

2581. Concern was expressed that the sentencing of Mr. Saidov is directly related to his work in defence of human rights, in particular his efforts to combat corruption. The Special Rapporteurs were also concerned for the physical integrity of Mr. Saidov who reportedly suffers from tuberculosis and has thus far been detained in unhygienic conditions.

Response from the Government

2582. In a letter dated 29 March 2010, the Government provided information regarding the case of **Mr. Dimurod Egamberdiyevich Saidov**, born in 1962 in Tashkent.

2583. Mr. Saidov has four previous convictions: (1) 15 March 1995, under article 104, paragraph 1 of the Criminal Code of the Republic of Uzbekistan; (2) 15 July 1995, under article 122 of the Criminal Code; (3) 25 November 1997, under article 166, paragraph 2(b) of the Criminal Code; and (4) 9 June 2000, under articles 25 and 169, paragraph 3(b) of the Criminal Code.

2584. By a judgment of 30 July 2009 of the Tailak district criminal court in the province of Samarkand, D. Saidov was sentenced to 12 years and 6 months' deprivation of liberty, to be served in ordinary regime colonies, under article 165, paragraph 3(a) (extortion on a particularly large scale), article 228, paragraph 2(b) (production or forgery of documents, stamps, seals or forms and their sale or use by prior agreement of a group of persons), and article 228, paragraph 3 of the Criminal Code of the Republic of Uzbekistan. He has been held in custody since 22 February 2009.

2585. In the same criminal case, the following were also sentenced to deprivation of liberty under the same articles of the Criminal Code of Uzbekistan: M. Zhurayeva for 11 years, A. Pulatov for 12 years and T. Ergashev for 11 years.

2586. In particular, D. Saidov, by threatening V. Khuzhakulov, the former chairman of the board of the "Uzbekistan" cooperative in Jomboy district, that he would organize the submission of complaints about embezzlement by the latter during his term in office, thus created a situation which forced him to hand over assets. Through the current chairman of the cooperative's board, S. Buoimurodov, he demanded US\$ 5,000 from V. Khuzhakulov by means of blackmail. At the same time, he also threatened S. Boimurodov that, should his demands not be met, he would circulate material compromising him and would publish it in the press. As V. Khuzhakulov and S. Boimurodov did not have the money to meet the demands made, D. Saidov then published several articles in the magazine "Advokat Press", which undermined the authority of V. Khuzhakulov and S. Boimurodov.

2587. D. Saidov, acting in consort with M. Zhurayeva, A. Pulatov and T. Ergashev, with a view once again to engaging in extortion by spreading complaints about A. Urinboyev, the chairman of the agricultural equipment and tractor park *Farovan hayot yuli*, on behalf of the chairmen of agricultural cooperatives operating in the area covered by the park and to creating a situation forcing the victims to hand over assets, persuaded the chairmen of eight agricultural cooperatives to sign blank power of attorney forms authorizing their representation in administrative bodies.

2588. After that, by using the forged powers of attorney, they sent complaints and declarations on behalf of the chairmen of the agricultural cooperatives to A. Urinboyev, the chairmen of the agricultural equipment and tractor park. Thereafter, rather than forwarding the above-mentioned declarations and complaints to the appropriate authorities, they demanded US\$ 15,000 from A. Urinboyev by means of blackmail.

2589. On the basis of A. Urinboyev's statement of 22 February 2009, the law enforcement authorities of the province of Samarkand took steps to arrest the criminals. In the process M. Zhurayeva was arrested as she was extorting US\$ 10,000 from A. Urinboyev.

2590. According to information from the Samarkand regional criminal court, on 22 February 2009 criminal proceedings were initiated against D. Saidov and others and, on the same day, he was questioned as a suspect, in the presence of the lawyers P. Komilov and K. Makhbubov.

2591. On 25 February 2009, the Samarkand municipal criminal court, with the lawyer K. Makhbubov in attendance, ordered the detention of D. Saidov.

2592. On 29 February 2009, with the lawyer K. Makhbubov in attendance, D. Saidov was charged under article 165, paragraphs 2(b) and 3(a), of the Criminal Code of Uzbekistan.

2593. On 20 April 2009, in the presence of the lawyers K. Makhbubov and P. Komilov, D. Saidov was again charged under article 165, paragraphs 2(a), (b), (c) and 3(a), and article 228, paragraphs 2(b) and 3, of the Criminal Code.

2594. The criminal case concerning D. Saidov and others was examined from 22 May to 30 July 2009 in an open court hearing at which D. Saidov's interests were defended by lawyers P. Komilov and A. Tashanov.

2595. In the light of the foregoing, no violations of procedural standards and in particular no failure to respect D. Saidov's right to a fair trial have been found to exist. The judgment has not yet become final, insofar as preparations are being made to review it in the court of appeal on the basis of complaints from the convicted persons and their representatives.

2596. While he has been in prison, D. Saidov has been X-rayed and has undergone a series of clinical and laboratory tests. On the basis of the medical findings, he was diagnosed as having nodal tuberculosis of the upper lobes of both lungs with calcification, in other words, as being clinically recovered from tuberculosis, so that group 3 is shown on his record. The convict's state of health is satisfactory and no symptoms of any real danger to his health are observed.

Letter of allegations

2597. On 19 January 2010, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations to the Government concerning **Ms. Umida Ahmedova**, a women's rights defender, photographer and film-maker.

2598. According to information received, on 16 December 2009, the Mirobod Department of Internal Affairs informed Ms. Umida Ahmedova that she had been arraigned on charges of slander (Article 139), insult (Article 140) and conducting activities without a licence (Art 190) under the Uzbek Criminal Code. The charges relate to the publication of a photo album titled "Women and Men: from Dawn to Dusk". The album was published in 2007 and contains 110 photographs relating to the traditions and customs of the Uzbek people. Ms. Ahmedova also produced two documentaries, titled "women and Men in Customs" and "Virginity Code".

2599. It is reported that these charges were initiated following the opening of investigations on several books and films on gender issues by the Uzbek Agency on Media and Information in November 2009.

2600. Concern was expressed that the charges against Ms. Ahmedova might be directly related to her legitimate work in defense of human rights.

Response from the Government

2601. In a letter dated 29 March 2010, the Government responded to the communication sent on 19 January 2010. At the time the present report was finalized, a translation of the response of the Government was not yet available.

Observations

2602. The Special Rapporteur wishes to thank the Government for its responses, but regrets that at the time of finalizing the present report, the Government had not transmitted a reply to the communication of 23 February 2009. He considers response to his communications an important part of the cooperation of Governments with her mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken to prosecute the perpetrators as well as protective measures taken.

Venezuela (Bolivarian Republic of)

Carta de alegaciones

2603. El día 30 de enero de 2009, el Relator Especial, junto con la Relatora especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente en relación al **Sr. Orel Zambrano**, director del Seminario político ABC, vicepresidente de la emisora privada Radio América 890AM, editorialista del diario regional Notitarde y también abogado y profesor en la Universidad de Carabobo.

2604. Según las informaciones recibidas, el 16 de enero de 2009, hacia las tres de la tarde, el Sr. Zambrano habría sido asesinado en Valencia, estado Carabobo. El Sr. Zambrano se habría bajado de su vehículo y se dirigía hacia una tienda de alquiler de películas cuando le habrían

interceptado dos sujetos desconocidos en una moto. Uno de los sicarios le habría disparado al Sr. Zambrano quien falleció en el lugar a consecuencia de un tiro en la cabeza. Los asesinos se habrían dado inmediatamente a la fuga.

2605. El Sr. Zambrano habría denunciado tanto al narcotráfico como a la corrupción privada y pública y a finales de 2008 habría denunciado un caso de narcotráfico en el cual está supuestamente implicada la poderosa familia Makled, de empresarios de la región de Valencia. Los tres hermanos de dicha familia, habrían sido detenidos el 14 de noviembre de 2008 supuestamente en posesión de cerca de 400 kilos de cocaína, luego del allanamiento de una propiedad familiar. Tienen abierto un procedimiento en curso en la Fiscalía nacional.

Llamamiento urgente

2606. El 28 de julio de 2009, el Relator Especial envió un llamamiento urgente en relación con la **revocación de las licencias estatales a 285 emisoras de radio y televisión.**

2607. Según las informaciones recibidas, el 9 de julio de 2009, el titular de la gubernamental Comisión Nacional de Telecomunicaciones (Conatel) y Ministro de Obras Públicas y Vivienda, el Sr. Diosdado Cabello, habría anunciado ante la plenaria de la Asamblea General, la decisión de revocar los permisos de transmisión a 285 emisoras de radio y televisión que aparentemente no actualizaron sus datos, ante el propio organismo, en un plazo de 15 días que finalizó el pasado 23 de junio.

2608. Según el Sr. Cabello, los medios que no acudieron a actualizar sus datos ante Conatel estaban actuando de manera ilegal, y se les retiraría el permiso de emisión, se decomisaría su equipo de transmisión y se les prohibiría operar en el sector durante cinco años.

2609. Adicionalmente, el Sr. Cabello habría señalado que para que un canal de TV por cable se considere internacional deberá tener un 70% de programación extranjera, de lo contrario deberá regirse por la Ley de Responsabilidad Social de Radio y Televisión. El Sr. Cabello habría añadido que Conatel presentará una propuesta para que no se permitan los circuitos radiales con más de tres emisoras y que, a su vez, tampoco puedan transmitir de manera conjunta por más de media hora.

2610. Asimismo, se anunció que se abrirán otros procesos de sanción contra las cadenas de televisión y radio que difunden la propaganda de dos organizaciones de la oposición. El Sr. Cabello calificó que este proceso surge por parte del Gobierno como una forma para “evitar que desde los medios se esté incitando de alguna manera a la comisión de delitos o enfermando a los venezolanos”. Suscita preocupación la intención de vetar los mensajes de organizaciones como Cedice y Asoesfuerzos, contrarios a la parte política del Gobierno de Su Excelencia, y que al día de hoy habían estado transmitidos a través de los medios televisuales. Según las informaciones recibidas, el procedimiento administrativo de la Conatel contra éstos fue acompañado de “una medida cautelar” que ordena a los medios radioeléctricos “abstenerse de difundir las propagandas” de inmediato.

2611. Se expresa preocupación por las repercusiones que la revocación de los permisos de transmisión a 285 emisoras de radio y televisión tendría sobre el libre ejercicio de la libertad de expresión en Venezuela.

Llamamiento urgente

2612. El 7 de agosto de 2009, el Relator Especial envió un llamamiento urgente en relación con el “**Proyecto de Ley Especial contra Delitos Mediáticos**” (en lo sucesivo: el “proyecto de ley”) presentado por la Fiscalía General de la República ante la Asamblea Nacional.

2613. Según las informaciones recibidas, el 30 de julio de 2009, la Fiscal General de la República, la Sra. Luisa Ortega Díaz, presentó ante la Asamblea Nacional un “Proyecto de Ley Especial contra Delitos Mediáticos” que prevé penas de cárcel para los profesionales de la información que infrinjan sus disposiciones.

2614. El borrador del Proyecto de Ley introduce una serie de castigos contra medios de comunicación, incluyendo duras penas de prisión. En virtud de esta ley, una persona que divulgue una información considerada “falsa”, “manipulada” o “tergiversada”; que cause “perjuicio a los intereses del Estado” o que atente contra la “moral pública” o la “salud mental”, incurrirá en la comisión de un “delito mediático” y podrá ser castigada hasta con cuatro años de cárcel. De ser aprobado el Proyecto de Ley, se sancionaría a quienes se nieguen “a revelar información” así como la “omisión voluntaria de suministrar información”, en contradicción con el derecho reconocido de protección de las fuentes periodísticas; dicho comportamiento se sancionaría con entre seis meses y cuatro años de cárcel.

2615. Se expresa preocupación por la aprobación del referido Proyecto de Ley que podría restringir seriamente el derecho a la libertad de opinión y de expresión en Venezuela, particularmente en el contexto de la reciente revocación de las licencias estatales a 285 emisoras de radio y televisión, que fue objeto de un llamamiento urgente enviado al Gobierno de su Excelencia el 28 de julio de 2009.

Llamamiento urgente

2616. El 16 de noviembre de 2009, el Relator Especial, junto con la Relatora Especial 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, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. **Lusbi Portillo**, coordinador de la organización no gubernamental Sociedad Homo et Natura y miembro de la Federación Ecologista del Zulia y del Frente Nacional por la Defensa del Agua y la Vida. El Sr. Portillo realiza actividades en solidaridad con los pueblos indígenas Barí, Yukpa y Wayuu en sus luchas por sus territorios.

2617. Según las informaciones recibidas, el Sr. Portillo habría sido informado que existe una orden de aprehensión en su contra. Supuestamente, el Sr. Portillo sería acusado de tener nexos con el narcotráfico. El Sr. Portillo supuestamente expresó temor por su seguridad física y por esta razón se habría encontrado escondido en un lugar secreto.

2618. Asimismo, unos días después de una manifestación frente al Ministerio del Ambiente el 5 de junio de 2009, en la cual habrían participado líderes Yukpa, Barí y Wayuu y varios ecologistas, se habría intensificado una campaña de difamación y criminalización en contra del Sr. Portillo. Dicha campaña se habría iniciado en 2005 tras la participación del Sr. Portillo en protestas en Machiques y Caracas contra la explotación de carbón en los territorios indígenas.

Desde entonces, el Sr. Portillo habría sido acusado de manipular a los indígenas y de tener vínculos a organizaciones no gubernamentales extranjeras vinculadas con empresas mineras.

2619. Se expresó temor que la presunta orden de aprehensión contra el Sr. Portillo esté relacionada con las actividades que realiza en defensa de los derechos humanos, y en particular de los derechos territoriales de los pueblos indígenas del estado de Zulia. Además se expresó preocupación que la campaña de difamación busque desacreditar las actividades legítimas que realiza el Sr. Portillo.

Carta de alegaciones

2620. El 18 de enero de 2010, el Relator Especial, junto con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias y la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron una carta de alegaciones en relación con el Sr. **Mijail Martínez**, integrante del Comité de Víctimas contra la Impunidad (CVCI), una organización de derechos humanos ubicada en el Estado de Lara. El Sr. Martínez era productor de audiovisuales y habría estado produciendo un documental acerca de las historias de las víctimas de violaciones de los derechos humanos supuestamente cometidas por agentes de la policía del Estado de Lara. Asimismo, era hijo del Sr. Víctor Martínez, ex Diputado de la Asamblea Legislativa del Estado de Lara e integrante del CVCI.

2621. Según las informaciones recibidas, el 26 de noviembre de 2009, por la mañana, dos hombres no identificados habrían disparado contra el Sr. Martínez quien se habría encontrado en la puerta de su casa en Barquisimeto. El Sr. Martínez habría muerto inmediatamente.

2622. Se teme que el asesinato del Sr. Mijail Martínez esté relacionado con las actividades que realizaba en la defensa de los derechos humanos, en particular sus actividades de denuncia de las violaciones de los derechos humanos supuestamente cometidas por agentes de la policía. Asimismo, este asesinato podría tener un efecto extremadamente negativo sobre el trabajo legítimo de los defensores de los derechos humanos en Venezuela y podría sofocar la libertad de expresión en el país.

Llamamiento urgente

2623. El 27 de enero de 2010, el Relator Especial envió un llamamiento urgente en relación con **el cierre colectivo de canales de televisión por cable en Venezuela.**

2624. Según las informaciones recibidas, el 23 de enero de 2010, el director de Conatel y Ministro del Poder Popular para las Obras Públicas y de Vivienda, Diosdado Cabello, exhortó públicamente a las empresas proveedoras de servicios de televisión por suscripción (cable y satélite) a sacar inmediatamente de sus grillas de programación a los canales que, a su juicio, estarían incumpliendo la Ley de Responsabilidad Social en Radio y Televisión. Según el Ministro, para establecer si un canal se encuentra violando dicha Ley, basta con la opinión de la empresa proveedora del servicio de suscripción o del propio Gobierno. La autoridad estatal advirtió además que, si las empresas operadoras no sacaban del aire a los canales de cable que a su juicio estaban incumpliendo la Ley, “serían ellos y no los canales los que serían sometidos a un procedimiento administrativo.”

2625. A las cero horas del 24 de enero de 2010, al menos seis canales de televisión por cable fueron sacados del aire, entre ellos el canal Radio Canales Televisión RCTV Internacional, TV Chile, Ritmo Son, Momentum, America TV e American Network.

2626. Quisiera remarcar que todo cierre de un medio de comunicación, debe obedecer al procedimiento legal previamente establecido, conducido por una autoridad estatal independiente, y no puede ser producto de una decisión administrativa del Gobierno. Asimismo, se expresa una preocupación en virtud que este hecho acontece en el contexto de un año de elecciones parlamentarias y de discusión de varias leyes fundamentales para el país. De igual manera, quisiera instar a las autoridades a garantizar la integridad física y moral de los trabajadores y miembros de los medios de comunicación social.

Llamamiento urgente

2627. El 27 de enero de 2010, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente en relación con **Globovisión** y el Sr. **Guillermo Zuloaga Núñez**. Globovisión es un canal de noticias de televisión con señal abierta, enfocado en el periodismo independiente, crítico y sin censura. La programación de Globovisión trata temas comunitarios con el fin de promover una sociedad informada y democrática en la que se pueden expresar opiniones, denuncias y planteamientos de todos sectores de la comunidad. El canal actualmente es uno de los últimos en el país que abiertamente critica al Gobierno y, con frecuencia informa sobre temas como la corrupción, el abuso o la oposición política.

2628. Según las informaciones recibidas, desde 2001, Globovisión y su personal habrían sido sujetos al hostigamiento, la intimidación y varias amenazas. Se habrían abierto investigaciones penales ante el Ministerio Público en contra del personal y directivos de Globovisión, y se habrían hecho declaraciones de responsabilidad por parte de la Asamblea Nacional en relación con directivos del canal. Asimismo, las autoridades se habrían negado a responder a 11 solicitudes al Gobierno para incrementar la cobertura abierta del canal en Venezuela. Se habrían promulgado varias leyes que operarían en contra de Globovisión y varios otros medios de comunicación; por ejemplo, la Ley de Responsabilidad Social en Radio y Televisión y el Código Penal, que limitan la libertad de expresión en Venezuela.

2629. Hasta la fecha, Globovisión habría recibido más de 268 mensajes de estigmatización, supuestamente enviados por el Gobierno, con alegaciones en contra de su personal. Asimismo, se habrían realizados más de 88 ataques físicos en contra de su personal y se habrían iniciado 38 procesos disciplinarios en contra de Globovisión y su personal. A modo de ejemplo, el 3 de agosto de 2009, la sede de Globovisión habría sufrido un ataque en que 30 agentes militares armados habrían ingresado a las oficinas y las habría atacado con gases lacrimógenos. Los agresores se habrían identificado como partidarios del Gobierno.

2630. En un sentencia del 3 de marzo de 2009, la Corte Interamericana de Derechos Humanos habría adoptado medidas provisionales para la protección del personal de Globovisión, habría responsabilizado al Estado venezolano por las agresiones y ataques contra los periodistas y trabajadores del canal, y habría declarado que los derechos de estos individuos a la libertad de expresión y la integridad física y psíquica habrían sido violados.

2631. A pesar de la decisión de la Corte Interamericana, hasta la fecha, las agresiones en contra de Globovisión se habrían incrementado. Actualmente, Globovisión está en peligro de la revocación de su licencia de televisión. El hostigamiento y las amenazas contra Globovisión son realizados en el contexto de una consolidación del control gubernamental sobre medios de comunicación, en que el canal de televisión RCTV y 32 emisoras de radio habrían sido cerrados.

2632. En este contexto, se habría iniciado una investigación criminal en contra del Sr. Guillermo Zuloaga Núñez en relación con los presuntos actos de “usura” y “agavillamiento”. Como resultado de esta investigación, Guillermo Zuloaga Núñez habría sido objeto de una prohibición de viajar y de un orden de presentación periódica. Esta investigación penal habría incurrido en varias violaciones a garantías procesales. Por ejemplo, la Fiscalía General de la República Bolivariana de Venezuela habría anunciado que la jueza provisional Alicia Torres Rivero habría ordenado la prohibición de viajar y la orden de presentación periódica. No obstante, dicha jueza, inmediatamente y públicamente, habría negado haber sido responsable por dichos órdenes contra Guillermo Zuloaga Núñez y como resultado, le habría destituido de su cargo. Al día siguiente, otro juez habría aceptado el puesto y habría confirmado los órdenes contra Guillermo Zuloaga Núñez.

2633. Desde entonces, a Guillermo Zuloaga Núñez no se le habría permitido salir de Venezuela para acabar un tratamiento médico. La Jueza Alicia Torres Rivero ya ha sido objeto de una comunicación del Relator Especial para la Independencia de los Jueces y Abogados, Leandro Despouy, quien, el 30 de julio de 2009, manifestó su preocupación por la remoción de la Jueza a raíz de su denuncia pública.

2634. Asimismo, el Presidente de Venezuela y varios Ministros del Gobierno habrían denunciado públicamente a Guillermo Zuloaga Núñez, llamándolo “delincuente” aunque la investigación en su contra no estuviese terminada.

2635. Se teme que el hostigamiento, la intimidación y las amenazas en contra de Globovisión y la investigación criminal en contra de Guillermo Zuloaga Núñez estén relacionados con las actividades que ellos realizaba para promover y defender los derechos de la gente de Venezuela. Se expresa una profunda preocupación por la integridad física y psicológica de todos los empleos de Globovisión. Estas ataques y amenazas, de ser confirmados, se enmarcaran en un contexto de gran vulnerabilidad para los defensores de los derechos humanos y para el derecho a la libertad de expresión en Venezuela. Quisiera recordarle al Gobierno de su Excelencia que tiene la responsabilidad de garantizar la seguridad de los defensores de los derechos humanos y de tomar las medidas necesarias para asegurar que ninguna violación contra un defensor de los derechos humanos quede en la impunidad.

Observaciones

2636. El Relator Especial agradece al Gobierno por su respuesta. No obstante, el Relator Especial lamenta que al finalizar este informe, no se había recibido respuestas a varias comunicaciones de 2010, 2009, 2008, 2007, 2006, 2005 y 2004. El Relator Especial considera que al responder a las comunicaciones representa un elemento fundamental para la cooperación de los Estados con el mandato, es por ello que insta al gobierno venezolano a que le proporcione una respuesta tratando los asuntos mencionados.

Viet Nam

Urgent appeal

2637. On 9 March 2009, the Special Rapporteur sent an urgent appeal to the Government concerning the issuing of a penalty against **Da Nang publishing house** which suspended its publication activities for a period of three months.

2638. According to information received, on 12 December 2008, the Ministry of Information and Communications issued an order to Da Nang publishing house due to “severe mistakes” which were reportedly committed in the publication of a book entitled Rong Da (Stone Dragon), written by Mr. Vo Ngoc Tien.

2639. Concern was expressed that the decision to suspend Da Nang publishing house from carrying out publishing activities may have been taken by the Ministry of Information and Communication to “discipline” Da Nang staff who were deemed responsible for the publishing of Rong Da.

Urgent appeal

2640. On 23 June 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government concerning the situation of Mr. **Le Cong Dinh**, a human rights lawyer and former Vice-President of the Ho Chi Minh City Bar Association.

2641. According to the information received, Mr. Le Cong Dinh was reportedly arrested on 13 June 2009 at his office in Ho Chi Minh City by agents of the Public Security Police.

2642. Following his arrest, the Investigation Agency of the Ministry of Public Security stated at a press conference that Mr. Le Cong Dinh had “connived with overseas subversives to publish documents distorting the Government’s socio-economic policies”. Mr. Le Cong Dinh was later charged with “conducting propaganda against the State”, under article 88 of the Penal Code. If convicted on this charge, he faces a possible sentence of up to 20 years of imprisonment.

2643. It was further reported that Mr. Le Cong Dinh has recently spoken out against the extraction of bauxite in the Central Highlands, and has also called for political reform in Vietnam.

2644. Concern was expressed that the arrest and detention of Mr. Le Cong Dinh may be linked to his peaceful activities in defence of human rights including in the exercise of his right to freedom of opinion and expression. Further concern was expressed for his physical and psychological integrity while in detention.

Response from the Government

2645. In a letter dated 6 July 2009, the Government responded to the communication sent on 23 June 2009 as follows. On 13 June 2009, the Investigation Agency of Viet Nam arrested Mr. Le Cong Dinh, who resided in Ho Chi Minh City and worked for the Le Cong Dinh Law Firm,

which is a one-member company limited, on accusation of having violated Article 88 of the Penal Code of Viet Nam. The arrest was done in strict compliance with the sequence and procedures stipulated in Article 62 and 63 of the Criminal Procedures Code of Viet Nam.

2646. Mr. Le Cong Dinh was trained in law in Viet Nam and was sent abroad for further study. Since he came back, he has been given favourable conditions to practice his profession. He was the Vice Chair of the Ho Chi Minh Bar Association and used to write articles for newspapers such as the Thanh Nien, Tuoi Tre, Sai gon Tiep Thi, Saigon Economic Times, Tia Sang magazines and the BBC Vietnamese. He also gave many interviews for BBC, RFI and RFA. This fact alone demonstrated that Mr. Le Cong Dinh fully enjoyed the rights to freedom of expression and opinion, and the state of Viet Nam had no preconception or discrimination against him.

2647. The arrest of Mr. Le Cong Dinh was not due to the reasons mentioned in your letter that Mr. Le Cong Sinh was against the extraction of bauxite in the Central Highlands, called for “political reforms” or his “peaceful activities in defense of human rights” and “the exercise of his right to freedom of opinion and expression”. Le Cong Dinh contacted and colluded with a number of exile Vietnamese organizations and groups abroad, including those listed by the Vietnamese Government as terrorist groups, in an attempt to prepare for riots and cause social instability and public disorder with the ultimate goal of overthrowing the State of Viet Nam.

2648. Since 2005, Le Cong Dinh has communicated with Nguyen Sy Binh, head of the exile U.S. based organizations of “People’s Action Party” and “Viet Nam Democratic Party”, who maintained close ties with heads of other exile groups, such as Ha Dong Xuyen (Viet Tan Group), Pham Nam Dinh (Democratic Get-Together Group), Doan Viet Hoat (Viet Nam Vision Group) with a view to designing the action plans to involve and establish subversive organizations in Viet Nam in order to realize the plot of “attacking from the outside to cause disorder inside the country”. Le Cong Dinh was assigned to collaborate for the development of organizations in Viet Nam to establish an illegal entity called “Viet Nam Democratic Party” and “Viet Nam Labour Party” and communicate with anti-Vietnamese State abroad. Le Cong Dinh was chosen by the hostile forces and anti-state exile forces to be trained abroad for sabotage activities against the state, including the one organized by Viet Tan in Pattaya, Thailand in late February 2009. Le Cong Dinh has visited the U.S. and Thailand for many times to meet with Nguyen Sy Binh to discuss and set out action plans to prepare for the opportunity to overthrow the regime in Viet Nam, which Dinh and his accomplices believed to arrive by the end of 2009 and early 2010. Le Cong Dinh participated in compiling a book, which served as the action platform for the group, called “the Road for Viet Nam” and he drafted the “New Constitution” to prepare for the so-called new Government.

2649. It should be recalled that “Viet Tan”, with which Mr. Le Cong Dinh has collaborated, was founded in 1982 and led by Hoang Co Minh. The ultimate goal of this organizations was to abolish the regime in Viet Nam. This organization conducted many infiltrations into Viet Nam by armed terrorist groups abroad, such as the Dong Tien II operation in December 1986 and July 1987. It is a terrorist group and has conducted terrorist actions against Viet Nam. At present, Viet Tan continues to operate under the cover of democracy and human rights while actually attempting to overthrow the Vietnamese State.

2650. It should be also recalled that the “United Front of Patriotic Forces for the Liberation of Viet Nam”, chaired by Le Quoc Tuy, conducted many acts to overthrow the State of Viet Nam. During 1981 to 1984 alone, this organization sent over 10 armed groups from abroad to infiltrate into the Vietnamese territory. Especially, during the 10th infiltration from the sea, many were captured or killed; the leaders, Tran Van Ba, Mai Van Hanh and 19 others were arrested when they landed on the coast of Ca Mau.

2651. Following his arrest, on 17 July 2009, Le Cong Dinh had admitted his acts of law violations, expressed his deep regret for his wrongdoings and asked the State for leniency.

2652. During the process of investigation before the trial, Le Cong Dinh is entitled to enjoy the rights of the suspected offender. His health is normal. The arrest of Le Cong Dinh conducted by Vietnamese investigation agency, the investigation as well as the introduction of instance, the trial have been and will be openly carried out on the basis of equity and objectivity in accordance with the sequence and procedures stipulated in existing Vietnamese laws, particularly the Criminal Procedures Code. These law provisions are also in line with international standards on human rights, particularly Articles 19(c), 20 and 21 of the International Covenant on Civil and Political Rights.

Letter of allegations

2653. On 24 November 2009, the Special Rapporteur, together with the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, sent a letter of allegations to the Government concerning the **eviction of monks and nuns from Bat Nha monastery and their future eviction from Phuoc Hue temple**, which was expected to take place on 30 November 2009.

2654. According to the allegations received, on 27 September 2009, about 150 people armed with sticks and hammers attacked the Bat Nha monastery. Plain-clothes police officers were reportedly amongst the mob and police officers in uniform blocked the roads leading to the monastery. The mob violently proceeded to the eviction of 379 monks and nuns from the monastery. Some monks and nuns were beaten up and four of them were sexually assaulted. According to the reports, the monks did not attempt to defend themselves, but they sat down and started to chant in order to respond in a non-violent manner to the attacks. Two senior brothers, Mr. Phap Hoi and Mr. Phap Sy, were beaten and would be still held under house arrest without proper charges in Hanoi and Nha Trang.

2655. After being evicted, the monks and nuns were offered refuge by Mr. Thai Thuan, the abbot of Phuoc Hue temple in Bao Loc. On 28 September 2009, the police threatened the abbot, claiming he had no right to offer refuge to the Bat Nha monks and nuns. The police then surrounded the temple and they started an intimidation campaign. Flyers were distributed in Bao Loc in order to damage the reputation of the abbot and he was denounced through loudspeakers in schools and in the streets. Police officers threatened to undertake similar attacks on Phuoc Hue temple, than the ones undertaken against the Bat Nha monastery on 27 September 2009. The intimidation campaign culminated with the demand that the abbot surrender fifteen monks and nuns. Under this extreme pressure, the abbot acceded to the demand and surrendered fifteen monks and nuns, who were taken into police custody and were driven more than 200 km away from Ho Chi Minh City.

2656. The other Bat Nha monks and nuns who remained in Phuoc Hue temple were still reportedly undergoing pressure and threats from the authorities to leave the temple. They were living under strict control of the police. The police harassed and obstructed people who are bringing food and clothing to the temple. Anyone who stopped in the vicinity of the temple was being stopped and questioned.

2657. Concerns were expressed that the crackdown on the Bat Nha Buddhist community is due to the teachings of Mr. Thich Nhat Hanh, leader of Bat Nha Buddhist community. It was noted that Mr. Thich Nhat Hanh made public recommendations in 2007 in order to improve religious freedom, including a request to disband the country's religious police.

Urgent appeal

2658. On 21 December 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding **Mr. Le Cong Dinh**, a prominent human rights lawyer. Mr. Dinh is well known for his defense of human rights advocates, bloggers, labor rights and democracy activists, and for his activities to promote democracy and the rule of law in Viet Nam. He is also known for expressing his views and criticisms regarding the policies of the Government of Viet Nam.

2659. Mr. Dinh was the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders on 23 June 2009. We acknowledge receipt of your Excellency's Government's response dated 6 July 2009.

2660. According to new information received, on 13 June 2009, Mr. Le Cong Dinh was arrested in his law office by the Investigation Agency of Viet Nam and detained in Ho Chi Minh City.

2661. Although it has been first stated that Mr. Dinh was arrested on the basis of Article 88 of Viet Nam's Penal Code ("conducting propaganda against the Government"), he had been formally charged under Article 79 of the Penal Code, which punishes conspiring or planning to overthrow the Government. The trial has been set for 25 December 2009, and the charges against Mr. Le Cong Dinh carry a penalty of life imprisonment or the death penalty.

2662. Mr. Le Cong Dinh has been held incommunicado since his arrest, except for two short visits by his wife. Although a legal counsel was appointed, Mr. Dinh has not been allowed to meet his attorney and in fact refused the appointed attorney as his legal counsel.

2663. As a result of his arrest, Mr. Le Cong Dinh has been disbarred by the Ho Chi Minh City Bar Association, and the Ministry of Justice has revoked his license to practice law.

2664. On 18 July 2009, a statement by Mr. Le Cong Dinh was broadcast on Viet Nam State Television, in which Mr. Dinh read a prepared statement confessing to the unofficial charges against him and denouncing democracy, the United States of America, and stating that the Viet Nam Reform Party was a terrorist organization.

2665. Concern was expressed that the arrest and detention of, and subsequent charges against, Mr. Le Cong Dinh might be related to his peaceful activities in defense of human rights, democracy and the rule of law in Viet Nam. Further serious concern was expressed regarding the physical and psychological integrity of Mr. Le Cong Dinh in light of his incommunicado detention. Finally, concern was expressed that the public statement and confession of Mr. Dinh may have been obtained under duress.

Response from the Government

2666. In a letter dated 7 April 2010, the Government communication sent on 21 December 2009 regarding the case of Mr. Le Cong Dinh as follows.

2667. Mr. Le Cong Dinh was arrested on 13 June 2009 and accused of activities violating Vietnamese laws. On 20 January 2010, the People's Court of Ho Chi Minh City sentenced him to five years in prison and three years of probation according to article 79 of the Penal Code which reads "those who carry out activities, establish or join organizations with intent to overthrow the people's administration shall be subject to between five and fifteen years of imprisonment".

2668. Investigation results show that Mr. Le Cong Dinh directly contacted and colluded with hostile forces and exile Vietnamese organizations and groups abroad, including those listed by the Vietnamese Government as terrorist groups such as Viet Tan and Fulro, in an attempt to prepare for riots and social instability and public disorder with the ultimate goal of overthrowing the State of Viet Nam. Mr. Dinh also attended a training course on rioting and violence operations organized by Viet Tan in Thailand. Mr. Dinh has confessed his violations and implored for mercy.

2669. During the period of provisional detention for investigation and the trial, Mr. Le Cong Dinh is entitled to enjoy the rights of the suspected offender without discrimination or ill-treatment, including the rights to be assisted by a lawyer of his own choosing and to be visited by his family. However, he refused the lawyer's assistance and wanted to be defended by himself. His personal decision, confirmed by his family, was respected.

2670. The decision of the Ho Chi Minh City Bar Association disbaring Mr. Dinh results from his activities violating the rules and regulations of the Association, such as the article 2 of the Rules of the Ho Chi Minh Bar Association, which in part reads "the lawyer has to respect and obey the law" and article 7 (on the rights and obligations of a lawyer) of the Vietnamese Bar Association. According to the 2006 Law of Lawyer (article 18), the Ministry of Justice has revoked the license to practice law of Mr. Dinh. All these decisions, made by the Ho Chi Minh Bar Association and the Ministry of Justice, are strictly in accordance with the existing laws of Viet Nam.

2671. As in many other States of law in the world, in Viet Nam, all violations by law, causing harm to national security must be punished in order to ensure the respect of law and to guarantee the peace, security and development which are common interests of the society. Activities carried out by Mr. Dinh are well organized and clearly aimed to wipe out the existing Constitution and to overthrow the State. The punishment of these violating activities is absolutely in compliance with standards of international law. The arrest, provisional detention for investigation and trial against Mr. Dinh have been carried out in strict compliance with the sequence and procedures stipulated in existing Vietnamese laws, particularly the Criminal Procedures Code and also in line with international standards on human rights, particularly the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. In the spirit of transparency, Viet Nam has allowed many foreign diplomats and journalists, including those who came from the US and some European countries, to attend the court.

Urgent appeal

2672. On 24 December 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding **Father Thadeus Nguyen Van Ly**, a Catholic priest, aged 63 years. Father Ly was already the subject of the Working Group on Arbitrary Detention's Opinion No. 20/2003 (Viet Nam), adopted on 27 November 2003 and a joint urgent appeal by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression dated 23 February 2007. We acknowledge receipt of your Excellency's Government's response dated 18 May 2007. The Special Rapporteur on freedom of religion or belief has previously sent two communications to the Government of Viet Nam regarding Father Thadeus Nguyen Van Ly (see E/CN.4/1993/62, para. 68 and A/56/253, para. 77) to which your Excellency's Government replied (see E/CN.4/1994/79, para. 80 and E/CN.4/2002/73, para. 114).

2673. According to new information received, on 11 December 2009 Father Nguyen Van Ly was transferred back to Ba Sao prison, where he is currently serving an eight-year prison sentence for "carrying out propaganda against the Socialist Republic of Vietnam," (Article 88 of the Vietnamese Criminal Code). He was arrested on 18 or 19 February 2007 and sentenced on 30 March 2007 following a trial that lasted approximately four hours. He was denied access to counsel before and during the trial.

2674. At Prison Hospital 198, which is run by the Ministry of Public Security in Hanoi, Father Ly had been recovering from a second stroke suffered in detention on 14 November 2009. Father Ly remains partially paralyzed on the right side of his body.

2675. During his detention, Father Ly has been mainly held in solitary confinement. He has suffered from high blood pressure and other health problems. In the seven months before the stroke, he had several bouts of ill-health for which the prison authorities neither provided a proper diagnosis nor adequate medical treatment.

2676. Father Ly was first imprisoned for his criticism of the policies of the Vietnamese Government on religion in the late 1970s, and has already spent approximately 17 years in prison in relation to his activities promoting respect for human rights, including freedom of opinion, expression and religion. He is one of the founders of the internet-based movement “Bloc 8406” which supports democracy, and has helped to set up other political groups which have subsequently been banned in Viet Nam. He also secretly published a journal entitled “To Do Ngon Luan”.

2677. Grave concerns were expressed in respect of Father Nguyen Van Ly’s state of health, particularly in view of reports that he has been transferred back to the prison despite not having fully recovered from a stroke.

Responses from the Government

2678. In a letter dated 19 March 2010, the Government responded to the communication sent on 24 December 2009 as follows.

2679. Mr. Nguyen van Ly was accused of activities violating Vietnamese laws and sentenced to 8 years in prison by the People’s Court of Thua Thien Hue Province on 30 March 2007 according to article 88 of the Penal Code. He was allowed to have counsel but he refused to do so. The arrest, provisional detention and trial against Mr. Ly have been carried out in strict compliance with the sequence and procedures stipulated in existing Vietnamese laws, particularly the Criminal Procedures Code and also in line with international standards on human rights. Many foreign diplomats and journalists, including those who came from the US and some European countries, were allowed to attend the court. There is no complaint lodged by and on behalf of Mr. Ly.

2680. In the mid-year of 2009, when serving his eight-year prison sentence in Nam Ha prison, Mr. Ly had high blood pressure symptoms and was provided adequate medical treatment by the health care service of Nam Ha prison. On 25 May 2009, Mr. Ly suffered a stroke which caused temporary paralysis of his arms and legs and some brain injuries, but was later recovered. Speaking with visitors, including the US Ambassador in Vietnam (on October 2009), Mr. Ly recognized that he has been provided adequate health care. On 14 November 2009, Mr. Ly again found paralysis on his right arm and leg. He was immediately moved to hospital for better medical treatment. Diagnosis results shown that his paralysis was caused rather by brain injuries he suffered from last stroke than by a new stroke. His health situation has been also informed to his family and the Hue Bishop. His family was allowed to look after him when he was at the hospital. A group of priests of Hue’s diocese lead by Archbishop Nguyen Nhu The also came to visit him. When his arm and leg were recovered and his health situation became better, he was moved back to the prison for the continuation of his sentence.

2681. Given Mr. Ly's health situation and the risks of stroke are high and in spirit of amnesty, on 12 March 2010 the People's Court of Ha Nam Province had decided to postpone his imprisonment for a period of 12 months, beginning from 15 March 2010, according to article 61 of the Penal Code, and allowed him to come back to Thua Thien Hue Province for health treatment. He is now residing at Hue's Bishop.

2682. Allegations that Mr. Ly was denied access to counsel, nor provided adequate medical treatment are totally not true.

Letter of allegations

2683. On 27 January 2010, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations concerning the sentencing of four human rights defenders, **Mr. Le Cong Dinh, Mr. Le Thang Long, Mr. Nguyen Tien Trung, and Mr. Tran Huynh Duy Thuc.**

2684. According to information received, on 20 January, a court in Ho Chi Minh City convicted Mr. Le Cong Dinh, Mr. Le Thang Long, Mr. Nguyen Tien Trung and Mr. Tran Huynh Duy Thuc under article 79 of the 1999 Penal Code for "organizing campaigns in collusion with reactionary organizations based abroad" that were "designed to overthrow the people's Government [...] with the help of the Internet", such as posting articles online, cooperating with "hostile" groups abroad and, in Mr. Dinh's case, attending a class on non-violent political change.

2685. Mr. Le Cong Dinh and Mr. Le Thang Long were sentenced to five years of imprisonment, while Mr. Nguyen Tien Trung and Mr. Tran Huynh Duy Thuc were sentenced to seven and 16 years of imprisonment respectively. Mr. Dinh, Mr. Long and Mr. Trung were also sentenced to three years of house arrest upon completing their terms in prison, while Mr. Thuc was sentenced to five years of house arrest upon completing his term in prison.

2686. The prosecution allegedly gave no evidence to support the indictment, the trial did not allow meaningful defense for the accused, and the judges deliberated for only 15 minutes before returning with the judgment, which took 45 minutes to read. It has been alleged that the judgment had been prepared in advance of the hearing.

2687. Relatives, diplomats and foreign journalists were prohibited from entering the courtroom, but some were allegedly allowed to follow the trial via a closed-circuit television in an adjacent room.

2688. Concerns regarding the arrest and detention of, and subsequent charges against Mr. Le Cong Dinh were expressed to your Excellency's Government on 23 June 2009 and 21 December 2009. We acknowledge receipt of your Excellency's Government's reply dated 6 July 2009, in which it was affirmed that Mr. Le Cong Dinh was arrested for contacting and colluding with a number of exiled Vietnamese organisations and groups abroad "in an attempt to prepare for riots and cause social instability and public disorder with the ultimate goal of overthrowing the State of Viet Nam".

2689. We remain deeply concerned that Mr. Le Cong Dinh, Mr. Le Thang Long, Mr. Nguyen Tien Trung, and Mr. Tran Huynh Duy Thuc have been sentenced to long prison terms for their peaceful and legitimate activities in defence of human rights and for exercising their right to freedom of opinion and expression in a non-violent manner.

Response from the Government

2690. In a letter dated 7 April 2010, the Government communication sent on 27 January 2010 regarding the case of Mr. Le Cong Dinh, Mr. Le Thang Long, Mr. Nguyen Tien Trung, and Mr. Tran Huynh Duy Thuc, as follows.

2691. Mr. Le Cong Dinh was arrested on 13 June 2009 and accused of activities violating Vietnamese laws. On 20 January 2010, the People's Court of Ho Chi Minh City sentenced him to five years in prison and three years of probation according to article 79 of the Penal Code which reads "those who carry out activities, establish or join organizations with intent to overthrow the people's administration shall be subject to between five and fifteen years of imprisonment".

2692. Investigation results show that Mr. Le Cong Dinh directly contacted and colluded with hostile forces and exile Vietnamese organizations and groups abroad, including those listed by the Vietnamese Government as terrorist groups such as Viet Tan and Fulro, in an attempt to prepare for riots and social instability and public disorder with the ultimate goal of overthrowing the State of Viet Nam. Mr. Dinh also attended a training course on rioting and violence operations organized by Viet Tan in Thailand. Mr. Dinh has confessed his violations and implored for mercy.

2693. During the period of provisional detention for investigation and the trial, Mr. Le Cong Dinh is entitled to enjoy the rights of the suspected offender without discrimination or ill-treatment, including the rights to be assisted by a lawyer of his own choosing and to be visited by his family. However, he refused the lawyer's assistance and wanted to be defended by himself. His personal decision, confirmed by his family, was respected.

2694. The decision of the Ho Chi Minh City Bar Association disbaring Mr. Dinh results from his activities violating the rules and regulations of the Association, such as the article 2 of the Rules of the Ho Chi Minh Bar Association, which in part reads "the lawyer has to respect and obey the law" and article 7 (on the rights and obligations of a lawyer) of the Vietnamese Bar Association. According to the 2006 Law of Lawyer (article 18), the Ministry of Justice has revoked the license to practice law of Mr. Dinh. All these decisions, made by the Ho Chi Minh Bar Association and the Ministry of Justice, are strictly in accordance with the existing laws of Viet Nam.

2695. Mr. Tran Huynh Duy Thuc, born in 1966 and residing in Tan Binh District, Ho Chi Minh City; Mr. Le Thang Long, born in 1967 and residing in Hai Ba Trung District, Hanoi; Mr. Nguyen Tien Trung, born in 1983 and residing in Tan Binh District, Ho Chi Minh City cooperated with hostile groups and maintained close ties with exile Vietnamese groups, including those who have been listed by the Government of Viet Nam as terrorist groups such as "Viet Tan", in order to realize the so-called "the Road for Viet Nam", a plot of "overthrowing the people's authorities and changing the political regime in Viet Nam by violence". Mr. Thuc,

by his role as the principal, was sentenced to 16 years in prison and 5 years probation according to article 79 of the Penal Code. Mr. Long and Mr. Trung was respectively sentenced to 5 years in prison and 3 years of probation and 7 years in prison and 3 years of probation by the People's Court of Ho Chi Minh City on 20 January 2010.

2696. As in many other States of law in the world, in Viet Nam, all violations by law, causing harm to national security must be punished in order to ensure the respect of law and to guarantee the peace, security and development which are common interests of the society. Activities carried out by Mr. Dinh are well organized and clearly aimed to wipe out the existing Constitution and to overthrow the State. The punishment of these violating activities is absolutely in compliance with standards of international law. The arrest, provisional detention for investigation and trial against Mr. Dinh, Mr. Long, Mr. Trung and Mr. Thuc have been carried out in strict compliance with the sequence and procedures stipulated in existing Vietnamese laws, particularly the Criminal Procedures Code and also in line with international standards on human rights, particularly the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. In the spirit of transparency, Viet Nam has allowed many foreign diplomats and journalists, including those who came from the US and some European countries, to attend the court.

Observations

2697. The Special Rapporteur wishes to thank the Government for the responses provided to his communications, but regrets that at the time the present report was finalized, no response had been transmitted to two of his communications sent in 2009. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

Yemen

Urgent appeal

2698. On 4 May 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding reports of the judicial harassment of journalist Mr. **Anees Mansoor**. Anees Mansoor is a member of the Lahaj branch of the National Organisation for Defending Rights and Freedoms "HOOD", and a journalist for Al-Ayam newspaper where he has been covering issues such as arbitrary detention, corruption and lack of the rule of law and reporting on protests in the Lahaj Region in the north of Yemen.

2699. According to the information received, on 21 April 2009, Anees Mansoor received a summons by the Qubaita Prosecution Office under the charges of encouraging instability and organising illegal demonstrations. These charges hold a maximum sentence of four years in prison. He was recalled to the Prosecution Office on 28 April 2009. The case against him continues.

2700. The case against Anees Mansoor was officially filed by the Reunification Defenders Association. At the first and second hearings, certain witnesses who testified against Anees Mansoor, alleging that he took part in protests, were reportedly the same people who Anees Mansoor had written about in his articles about corruption. The prosecution allegedly failed to pay due attention to the testimonies of character witnesses who testified about Anees Mansoor's professionalism and his lack of involvement in any form of protest. These witnesses reportedly complained that they were interrogated as suspects and that they themselves were questioned concerning their involvement in the protests.

2701. Prior to being called to the Prosecution Office, Anees Mansoor was allegedly approached by an intelligence agent who requested he cease his publication of critical material and to instead provide the Intelligence Apparatus with information regarding protests in Lahaj. Anees Mansoor refused to comply with this request.

2702. On 13 January 2009, Anees Mansoor was arrested along with fellow human rights defender, Wajdy El-Shuaiby, in Alhashemy Square, Aden, while covering a rally organised by forums for reconciliation and tolerance, which was allegedly violently disrupted by security forces. He was later released on 15 January 2009.

2703. Concern was expressed that the judicial harassment of journalist Mr. Anees Mansoor may be related to his legitimate activities defending human rights, in particular freedom of expression.

Urgent appeal

2704. On 23 July 2009, the Special Rapporteur sent an urgent appeal to the Government regarding the sentencing of Mr. **Anis Mansour**, a journalist for the suspended daily newspaper Al-Ayyam, to 14 months of imprisonment.

2705. According to information received, on 15 July 2009, Mr. Anis Mansour was sentenced to 14 months in prison by a lower court in Al-Qabita in Luhj province for allegedly inciting separatism and attacking national unity due to his coverage of the ongoing unrest in the south of Yemen. It was also been alleged that Al-Ayyam, a popular Aden-based independent newspaper in Yemen, has been the target of a harsh crackdown by authorities over the previous months. Reports claimed that copies of the newspaper have been confiscated and burned, and that Al-Ayyam has been unable to publish since Government forces raided its offices on 13 May 2009.

2706. Concern was expressed that the sentencing of Mr. Anis Mansour to 14 months in prison as well as the attacks against Al-Ayyam may represent a direct attempt to suppress independent media and thus to stifle the right to freedom of expression in Yemen.

Urgent appeal

2707. On 25 August 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Vice-Chairperson Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal to the Government regarding **Mr. Salah Yahya el-Saqladi**. Mr. el-Saqladi is the director of the Aden branch of the Organization for

Change and the Defense of Rights and Freedoms (OCDRF). He is also the political editor of Hewar Human Rights Forum online and has written several articles on reported human rights violations committed by the Yemeni authorities, in particular in Southern Yemen.

2708. According to information received, on 18 June 2009, at approximately 10.30 a.m., a group of armed men in civilian clothing took Mr. el-Saqladi from his home in Khour Maksar, Aden. The men, who forced their way into the house, physically assaulted Mr. el-Saqladi in the presence of his family, took his laptop and mobile phone and then allegedly transferred him to Al-Fatah Camp in Aden. Mr. el-Saqladi's family members and lawyers have been denied all visitation rights, and his whereabouts have not been confirmed, although it is believed that he was later transferred to the Political Security Apparatus (PSA) prison in Sana'a.

2709. Concern was expressed that the incommunicado detention of Mr. el-Saqladi may be related to his work in defense of human rights. Further concern was expressed for Mr. el-Saqladi's physical and psychological integrity.

Urgent appeal

2710. On 29 September 2009, the Special Rapporteur, together with the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal to the Government regarding **Mr. Mohammed al-Maqaleh**, editor of the Socialist Party's website, "Al Eshteraki".

2711. According to information received, on 17 September 2009 at around 11:00 p.m., Mr. al-Maqaleh was allegedly abducted by five masked men outside his home on Taiz Street in Sa'ada, north-western Yemen. He was about to enter his car when a white minibus with obscured license plates approached him and armed men allegedly forced him onto the minibus. He has not been seen since then, and his whereabouts are unknown. Reports claim that shortly before he was abducted, he had published a report on the "Al Eshteraki" website regarding military airstrikes near the city of Sa'ada, which reportedly caused civilian casualties.

2712. Mr. al-Maqaleh has previously been arrested and held in incommunicado detention several times before being released without any trials, allegedly for publishing articles on the Internet which were critical of the government. He has allegedly been subjected to torture and other cruel, inhuman or degrading treatment or punishment during his detention.

2713. Concern was expressed regarding the physical and psychological integrity of Mr. al-Maqaleh. Further concern was expressed that the alleged abduction of Mr. al-Maqaleh is an attempt to prevent independent reporting in Yemen thus stifling the right to freedom of opinion and expression in the country, particularly given the recent arrest of two journalists, Mr. Salah Yahya el-Saqladi and Mr. Anis Mansour.

Urgent appeal

2714. On 13 October 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the government regarding Ms. **Tawakkol Karman** and Ms. **Lubna Al-Gedsi**. Ms. Karman is the director of the non-

governmental organization Women Journalists Without Chains (WJWC) and Ms. Al-Gedsi is the coordinator of the organization's Rights and Freedoms Unit. WJWC works to promote civil rights in Yemen and actively campaigns for freedom of speech and freedom of the press in the country.

2715. According to information received, on 6 October 2009, Ms. Karman and Ms. Al-Gedsi were participating in a peaceful sit-in in Freedom Square in Sana'a when the demonstration was reportedly violently repressed by security agents. Ms. Karman and Ms. Al-Gedsi were both allegedly physically assaulted and the camera that they were using was broken.

2716. It is reported that the purpose of the sit-in was to demand the release of the prominent journalist Mr. Mohammed al-Maqaleh and the re-opening of the newspaper Al-Ayyam. Concerns regarding the abduction of Mr. al-Maqaleh, as well as the arrest of two journalists, Mr. Salah Yahya el-Saqladi and Mr. Anis Mansour, were the subject of an urgent appeal sent to your Excellency's Government on 29 September 2009 by the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. We regret that no response has yet been received from your Excellency's Government.

2717. Concern was expressed that the excessive use of force against Ms. Karman and Ms. Al-Gedsi and other peaceful protesters may be linked to their non-violent activities in defense of human rights. Further concern was expressed for the physical and psychological integrity of the members of WJWC, as well as persons who exercise their right to freedom of opinion and expression in Yemen, particularly journalists.

Urgent appeal

2718. On 2 December 2009, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the situation of human rights defenders, sent an urgent appeal to the Government regarding the threats against and intimidation of Ms **Amal Basha**, Chairperson of the "Sisters Arab Forum for Human Rights" (SAF). SAF is monitoring and documenting cases of torture in Yemen.

2719. According to the information received, in the evening of 22 November 2009, the offices of SAF were broken into by unknown individuals and the premises were searched. Although no documents nor equipment appear to have been stolen, materials in the archives were compromised and some electronic equipment was damaged.

2720. On 20 and 21 November 2009, Ms Amal Basha received a number of anonymous intimidating phone calls. One of the callers alleged that he was calling from the "investigation department".

2721. On 17 November 2009, the rear brakes of Ms Basha's car were tampered with. Furthermore, Ms Basha was the subject of a simulated acid attack as she was leaving the Criminal Court, where she had been observing the trial of a political activist.

2722. The attacks and acts of intimidation may be a result of the intervention of Ms Amal Basha on 24 September 2009 at the Human Rights Council, during the adoption of the UPR report on Yemen. SAF also presented a shadow report to the 43rd session of the UN Committee Against Torture, held on 3-4 November 2009, which had been prepared in collaboration with 13 other Yemeni human rights organizations.

2723. Concern was expressed that the attacks on, and intimidation of, Ms Amal Basha and the breaking and entering into the offices of SAF may be in relation with the peaceful activities of Ms Amal Basha and SAF in promoting and protecting human rights, and in particular with monitoring and documenting cases of torture. Further serious concern was expressed regarding the physical and psychological integrity of Ms Amal Basha.

Urgent appeal

2724. On 21 January 2010, the Special Rapporteur, together with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal concerning **Mr. Hisham Bashraheel**, editor-in-chief of the Al-Ayyam newspaper and his sons, **Mr. Hani Bashraheel** and **Mr. Muhammad Bashraheel**.

2725. According to the information received, on 4 January 2010, a protest took place at the Al-Ayyam newspaper office in Aden, to mark the eight month anniversary of the banning in May 2009 of Al-Ayyam and other newspapers. The security forces allegedly opened fire on the protestors, which the newspaper's security guards returned. One member of the security forces was killed and wounded, and one security guard was killed while three others were wounded.

2726. Approximately 12 people were arrested on 5 January, including Mr. Muhammad Bashraheel. Whilst the latter remains in detention, most of them were subsequently released. On 6 January, Mr. Hisham Bashraheel and his son, Mr. Hani Bashraheel, were arrested following their participation in the protest. The whereabouts of Mr. Hisham Bashraheel, Mr. Hani Bashraheel and Mr. Muhammad Bashraheel remain unknown.

2727. In view of their reported detention at an undisclosed location, concern was expressed regarding the physical and psychological integrity.

Observations

2728. The Special Rapporteur regrets that at the time the present report was finalized, no response had been transmitted to a number of communications sent in 2009, 2008, 2007, 2005, and 2004. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

Zimbabwe

Letter of allegations

2729. On 7 May 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal concerning the re-arrest and detention of Ms **Jestina Mukoko**, director of the non-governmental organization Zimbabwe Peace Project, Mr. **Andrisson Manyere**, freelance journalist, and **16 other human rights and political activists**. The 18 co-accused were released on 2 March 2009, after allegedly being victims of enforced disappearance, torture and other ill-treatment between October and December 2008 while in detention.

2730. Ms Jestina Mukoko was the subject of an urgent appeal sent on 4 December 2008, by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and Special Rapporteur on the situation of human rights defenders.

2731. According to new information, on 4 May 2009, Ms Jestina Mukoko, Mr. Andrisson Manyere and 16 other human rights and political activists reportedly appeared in Harare High Court.

2732. On 5 May, following submissions by the Attorney General's office to have their bail revoked, Magistrate Chimhanda reportedly ruled to remand in custody the 18 co-accused, on charges of terrorism and bombings with a view to topple the previous Government.

2733. It is reported that Ms Mukoko and at least some others have been released on bail.

2734. Serious concern was expressed that the re-arrest and detention of Ms Jestina Mukoko, Mr. Andrisson Manyere and 16 other human rights and political activists might be linked to their legitimate work in defence of human rights and in the exercise of their right to freedom of opinion and expression. Further concern was expressed that these new developments might form part of a pattern of intimidation and harassment against the 18 co-accused, and more generally against human rights defenders, journalists and political activists in Zimbabwe.

Urgent appeal

2735. On 21 January 2010, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the right to education and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding the situation of **Ms. Thabita Taona, a member of Women of Zimbabwe Arise (WOZA)**. WOZA is a grassroots organization working to promote and protect women's activism.

2736. WOZA members have been the subject of previous communications by special procedures mandate-holders on 29 September 2004, 27 October 2004, 19 April 2005, 20 May 2005, 28 June 2005, 16 February 2006, 15 September 2006, 7 December 2006, 12 June 2007, 28 September 2007, 6 June 2008, 8 July 2008, and 27 October 2008.

2737. According to the information received, on 18 January 2010, WOZA reportedly organized three separate peaceful demonstrations, which simultaneously started and marched towards the offices of Ministry of Education in Harare. The objective of the march was to protest about the state of education in Zimbabwe and to hand over a WOZA report on the education system in Zimbabwe entitled “Looking Back to Look Forward” to the Minister. The report contained demands and recommendations addressed to the Minister of Education, Senator David Coltart.

2738. It is alleged that one of the groups of demonstrators was stopped by the police before arriving at the Ministry. The riot police, armed with baton sticks, arrested Ms. Thabita Taona, who was participating in the demonstration, and Mr. Manyere, who was covering the march. Mr. Manyere was released on bail the same day, with no charges brought against him. Ms. Taona remains held in detention at the Harare Central Police Station, where she has been interrogated about other participants in the demonstration. No charges have been brought against her because an Investigating Officer has reportedly not been assigned to the case yet. Ms. Taona was allowed access to her lawyer, and was given the food brought to her.

2739. Concern was expressed that the arrest and detention of Ms. Thabita Taona and Mr. Andrison Manyere might be directly related to their peaceful activities in the defense of human rights, exercising their right to freedom of opinion and expression and peaceful assembly. Further concern was expressed that these arrests might form part of a broader pattern to intimidate members of WOZA.

Observations

2740. The Special Rapporteur regrets that at the time of finalizing the present report, the Government had not transmitted a reply to many of his communications dated 2009, 2008, 2007, 2006, 2005 and 2004. He considers response to his communications an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

2741. The Special Rapporteur remains concerned about continuous reports of illegitimate restrictions to the exercise of the rights to freedom of expression and peaceful assembly.
